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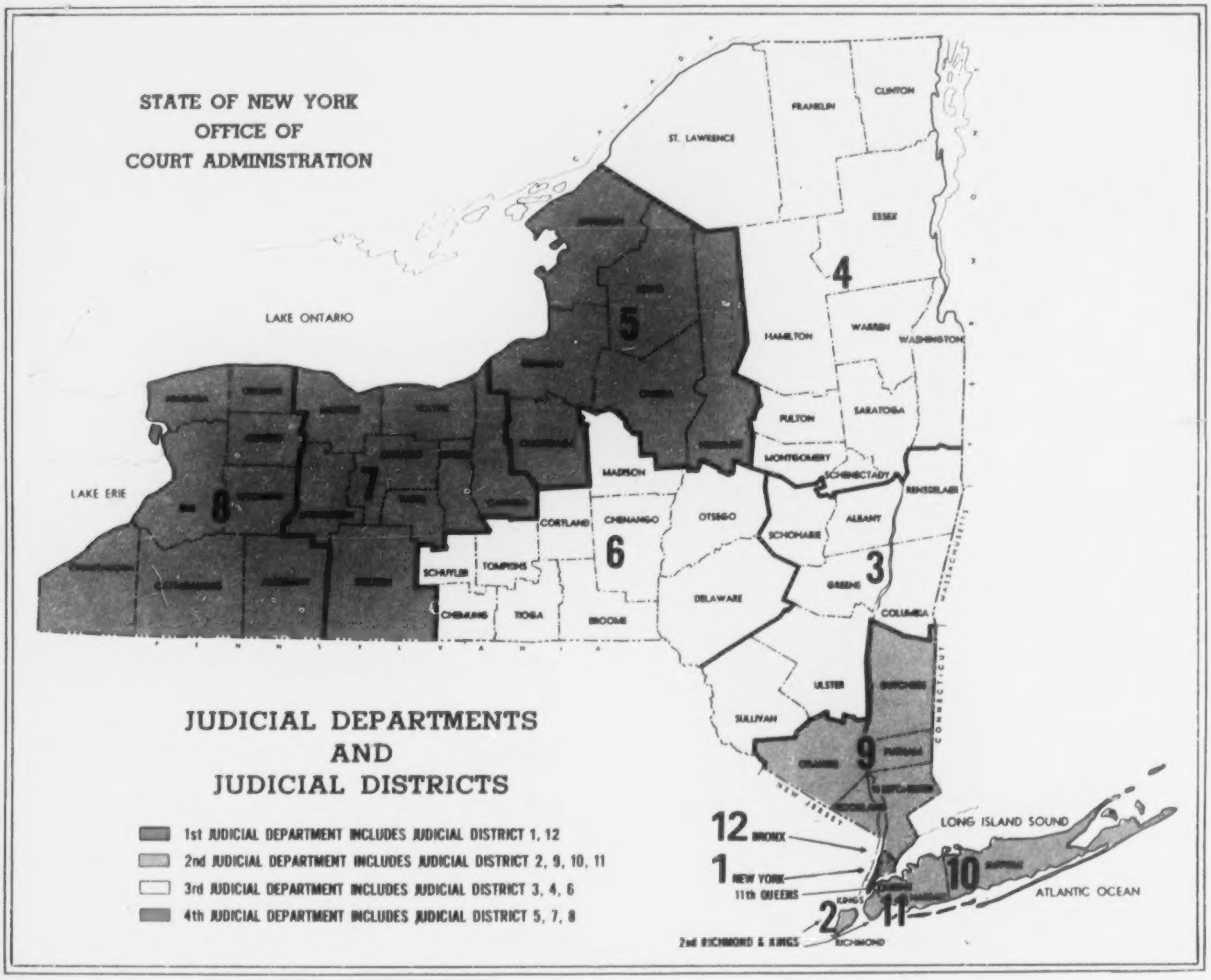
STATE OF NEW YORK

State of New York
Unified Court System

Sixth and Seventh Annual Reports
of
The Chief Administrator of the Courts

1984 - 1985



STATE OF NEW YORK
OFFICE OF
COURT ADMINISTRATION

JUDICIAL DEPARTMENTS AND JUDICIAL DISTRICTS

▩ 1st JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 1, 12
▨ 2nd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 2, 9, 10, 11
☐ 3rd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 3, 4, 6
▩ 4th JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 5, 7, 8

LAKE ONTARIO
LAKE ERIE
ST. LAWRENCE
FRANKLIN
CLINTON
ESSEX
4
HAMILTON
WARREN
WASHINGTON
FULTON
SARATOGA
MONTGOMERY
SCHENECTADY
RENSSELAER
ALBANY
SCHOHARIE
OTSEGO
MADISON
CHENANGO
CORTLAND
6
TOMPKINS
SCHUYLER
CHEMUNG
TIOGA
BROOME
DELAWARE
GREENE
3
COLUMBIA
ULSTER
SULLIVAN
DUTCHESS
ORANGE
9
PUTNAM
WESTCHESTER
ROCKLAND
5
7
8
P E N N S Y L V A N I A
MASSACHUSETTS
CONNECTICUT
NEW JERSEY
LONG ISLAND SOUND
ATLANTIC OCEAN
12 BRONX
1 NEW YORK
11th QUEENS
KINGS
2
11
10
SUFFOLK
NASSAU
2nd RICHMOND & KINGS
RICHMOND

Letter of Transmittal

To:

THE HONORABLE MARIO M. CUOMO, Governor of the State of New York,
and
The Legislature of the State of New York:

Pursuant to Section 212(j) of the Judiciary Law, I submit this annual report of the activities and state of the unified court system in 1983.

Robert J. Sise
Chief Administrative Judge
of the Courts

March 15, 1984

COURT OF APPEALS

Lawrence H. Cooke, *Chief Judge*

Matthew J. Jasen	Bernard S. Meyer
Hugh R. Jones	Richard D. Simons
Sol Wachtler	Judith S. Kaye

ADMINISTRATIVE BOARD OF THE COURTS

Lawrence H. Cooke, *Chairman*

Francis T. Murphy	A. Franklin Mahoney
Milton Mollen	Michael F. Dillon

STATE OF NEW YORK

Report
of
The Chief Administrator of the Courts

For the Calendar Year

January 1, 1983 — December 31, 1983

Court of Appeals
Lawrence H. Cooke, *Chief Judge*

Matthew J. Jasen
Hugh R. Jones
Sol Wachtler
Bernard S. Meyer
Richard D. Simons
Judith S. Kaye

Chief Administrative Judge of the Courts
Robert J. Sise

Administrative Board of the Courts
Lawrence H. Cooke, *Chairman*

Francis T. Murphy
Milton Mollen
A. Franklin Mahoney
Michael F. Dillon

State of New York
Unified Court System
1983

ROBERT J. SISE
Chief Administrative Judge

BETTY WEINBERG ELLERIN
Deputy Chief Administrative Judge
Courts in New York City

S. MICHAEL NADEL
Deputy Chief Administrator
for Management Support

RICHARD J. DARONCO
Deputy Chief Administrative Judge
Courts Outside New York City

Administrative Judges

EDITH L. MILLER
Administrative Judge
New York City Family Court

ISRAEL RUBIN
Administrative Judge
New York City Civil Court

JOSEPH B. WILLIAMS
Administrative Judge
New York City Criminal Court

XAVIER C. RICCOBONO
Administrative Judge
First Judicial District
Supreme Court, Civil Branch

MILTON L. WILLIAMS
Administrative Judge
First Judicial District
Supreme Court, Criminal Branch

LEONARD E. YOSWEIN
Administrative Judge
Second Judicial District
Supreme Court

FRANCIS X. SMITH
Administrative Judge
Eleventh Judicial District
Supreme Court

LOUIS FUSCO, JR.
Administrative Judge
Twelfth Judicial District
Supreme Court, Civil Branch

WILLIAM KAPELMAN
Administrative Judge
Twelfth Judicial District
Supreme Court, Criminal Branch

HAROLD E. KOREMAN
Presiding Judge
Court of Claims

EDWARD S. CONWAY
District Administrative Judge
Third Judicial District

NORMAN L. HARVEY
District Administrative Judge
Fourth Judicial District

WILLIAM R. ROY
District Administrative Judge
Fifth Judicial District

HOWARD A. ZELLER
District Administrative Judge
Sixth Judicial District

JOSEPH G. FRITSCH
District Administrative Judge
Seventh Judicial District

JAMES B. KANE
District Administrative Judge
Eighth Judicial District

JOSEPH F. GAGLIARDI
District Administrative Judge
Ninth Judicial District

ARTHUR D. SPATT
Administrative Judge
Nassau County

ARTHUR M. CROMARTY
Administrative Judge
Suffolk County

- ★ -

MICHAEL COLODNER
Counsel

WILLIAM CLAPHAM
Director, Budget and Finance

THOMAS CHRISTIAN
Director, Community Dispute
Resolution Centers Program

MICHAEL F. MCENENEY
Director, Court Operations Services

DONALD A. TAYLOR
Director, Education and Training

HOWARD RUBENSTEIN
Director, Employee Relations

ADRIENNE WHITE
Director, Equal Employment
Opportunity

WILLIAM GALLAGHER
Inspector General

RICK ROSS
Director, Programs and Planning

HAROLD WOLFE
Director, Public Information

Preface

This is the Sixth Annual Report of the Chief Administrator of the Courts. It is submitted pursuant to section 212(j) of the Judiciary Law and covers the period from January 1, 1983 through December 31, 1983.

This report is the sixth in a series that succeeded the annual reports of the Administrative Board of the Judicial Conference, the Judicial Conference, and the Office of Court Administration. That series, in turn, had succeeded the annual reports of the Judicial Council.

The report consists of four chapters. Chapter 1 describes the objectives, the structure, the administration and the financing of the courts in New York State. Chapter 2 presents the caseload activity report for court operations in calendar year 1983. Chapter 3 reports on education and training programs conducted, coordinated or assisted by the Office of Court Administration in 1983.

Chapter 4 summarizes (a) the legislation sponsored by the Office of Court Administration at the 1983 session of the Legislature and (b) rules revised or added during that year. It includes the *1984 Report of the Advisory Committee on Civil Practice to the Chief Administrator of the Courts of the State of New York*, the *1984 Report of the Advisory Committee on Criminal Law and Procedure to the Chief Administrator of the Courts of the State of New York*, the *1984 Report of the Family Court Advisory and Rules Committee to the Chief Administrator of the Courts of the State of New York*.

The Appendices consist of two sections : 1) Other Programs (Retainer and Closing Statements, Statements of Approval of Compensation, Attorney Registration, and Adoption Affidavits), and 2) Family Court Statistics.

Please Do Not Destroy or Discard This Report.

When this report is of no further value to the holder, please return it to the Office of Court Administration, 270 Broadway, New York, N.Y. 10017, so that copies will be available for replacement in our sets and for distribution to those who may request them in the future.

Acknowledgment

The Chief Administrator of the Courts gratefully acknowledges the assistance and cooperation extended to him and to the Office of Court Administration during the past year by the governor and his staff, members of the Legislature, members of the Judiciary, court personnel, bar associations, and individual lawyers and laypersons.

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Chapter 1

The Courts

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became effective September 1, 1962, bringing about the first court reorganization in New York since 1894.

Article VI provides for a "unified court system for the state," specifies the organization and the jurisdiction of the courts in the state, and establishes the method of selection and removal of judges and justices.

Article VI also provides for the administrative supervision of the courts. Since April 1, 1978, under a court reform constitutional amendment approved by the people in November 1977, the responsibility and authority for that function have been vested in the Chief Judge of the Court of Appeals, who is the Chief Judge of the State.

The Judiciary (1) provides a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determines the legality of wills, adoptions, uncontested divorces and other undisputed matter submitted to the courts for review and approval; (3) provides legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; and (4) regulates the admission of lawyers to the Bar and their conduct and discipline.

1.1 Court Structure

In New York state the courts of original jurisdiction, or trials courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts in the Third and Fourth Judicial Departments. The trial courts of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York, and outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1-a and 1-b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. They are appointed by the Governor for 14-year terms, with the advice and consent of the Senate, from among persons found to be well-qualified by the Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or Federal statute. In other matters, the Constitution provides that certain types of cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

The Court also hears appeals from determinations of the State Commission on Judicial Conduct.

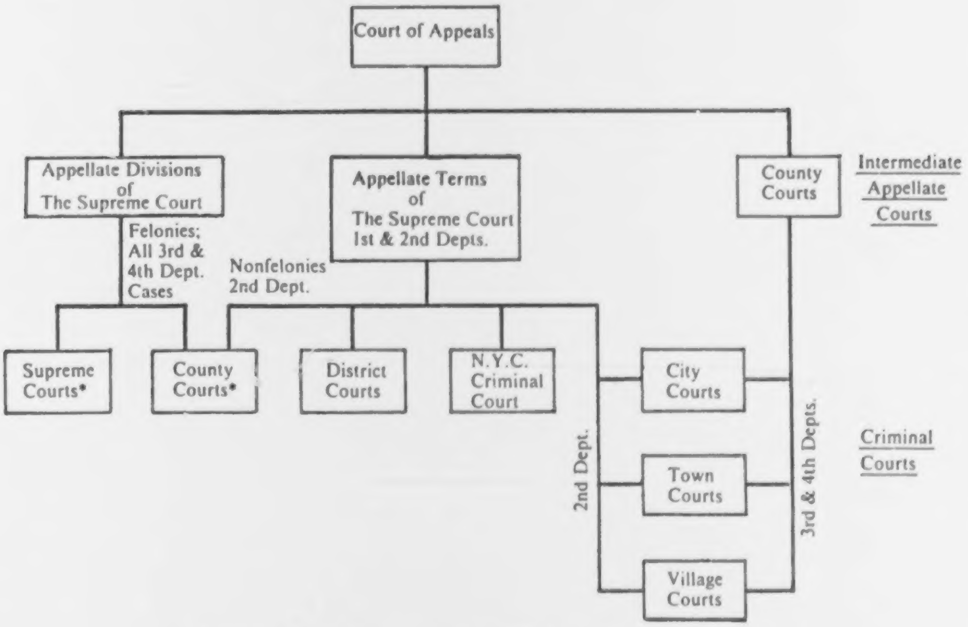
The *Appellate Divisions of the Supreme Court* are established in each of the state's four judicial departments (see the map at the beginning of this report. Their responsibilities are:

—Resolving appeals from judgments or orders of the courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms.

—Conducting proceedings to admit, suspend, or disbar lawyers.

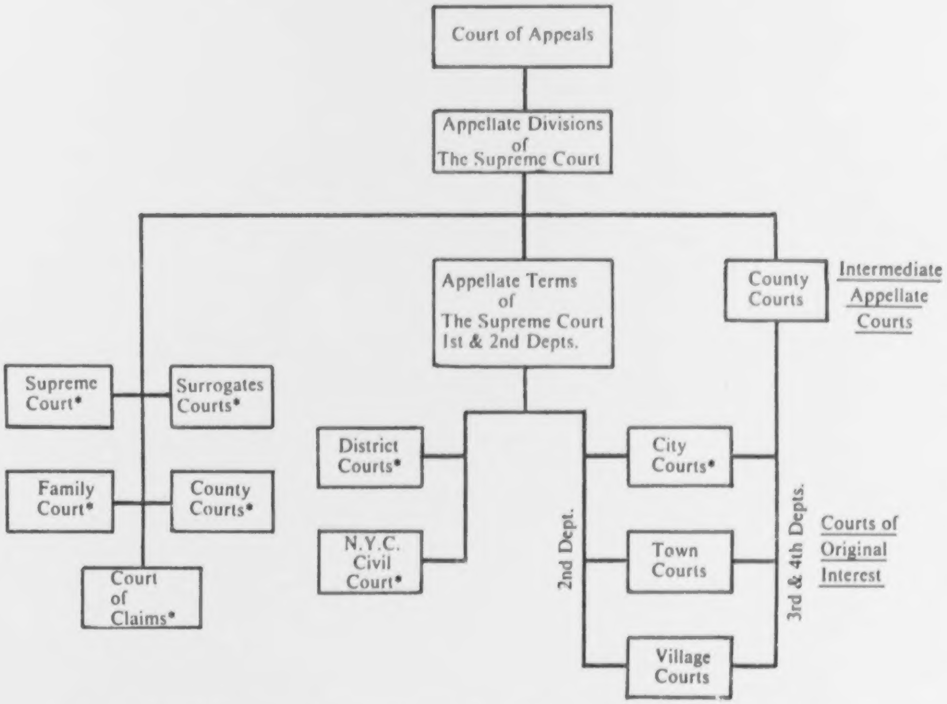
Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in county-level courts and original jurisdiction over selection proceedings. Where established by the Appellate Division, *Appellate Terms* exercise jurisdiction over civil and criminal appeals from various local courts and certain criminal appeals from the County Courts in the Second Judicial Department.

Figure 1-a
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure


Court of Appeals
Appellate Divisions of The Supreme Court
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Felonies; All 3rd & 4th Dept. Cases
Nonfelonies 2nd Dept.
Supreme Courts*
County Courts*
District Courts
N.Y.C. Criminal Court
City Courts
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Criminal Courts

*Appeals involving death sentences must be taken directly to the Court of Appeals.

Figure 1-b
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Structure


Court of Appeals
Appellate Divisions of The Supreme Court
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Supreme Court*
Surrogates Courts*
Family Court*
County Courts*
Court of Claims*
District Courts*
N.Y.C. Civil Court*
City Courts*
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Courts of Original Interest

*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United States Constitution may be taken directly to the Court of Appeals. Only some of the City Courts are courts of record.

As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor. The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are designated for five-year terms or for the remainder of their terms of office, whichever period is shorter. Section 212 of the Judiciary Law provides that justices of the Appellate Terms shall be designated by the Chief Administrator of the Courts with the approval of the Presiding Justices.

The *Supreme Court* has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

—Civil matters beyond the financial limits of the lower court's jurisdiction;
—Divorce, separation, and annulment proceedings;
—Equity suits, such as mortgage foreclosures and injunctions; and
—Criminal prosecutions of felonies and indictable misdemeanors in New York City.

Supreme Court justices are elected by judicial district for 14-year terms.

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecutions of offenses committed within the county, although in practice, most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to $25,000.

County Court judges are elected in each county for terms of 10 years.

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. The principal types of cases it hears include:

—Support of dependent relatives;
—Juvenile delinquency;
—Child protection;
—Persons in need of supervision;
—Review and approval of foster-care placements;
—Paternity determinations;
—Family offenses; and
—Adoptions (concurrent jurisdiction with Surrogate's Court).

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The *New York City Civil Court* tries civil cases involving amounts up to $25,000. It includes a Small Claims Part for the informal disposition of matters not exceeding $1,500 and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms. In addition to Civil Court judges, special Housing judges are appointed for 5-year terms to sit in Housing Parts. They are not, however, constitutional judges. The appointments are made by the Administrative Judge of the Civil Court.

The *New York City Criminal Court* conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: *District, City, Town* and *Village Courts*. These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The *Court of Claims* is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, for nine-year terms.

(See Table 1 for the authorized number of judges in the State Judiciary.)

1.2 Court Administration

Section 28 of Article VI of the State Constitution provides that the Chief Judge of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a Chief Administrator of the Courts (who is called the Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chairman and the Presiding Justices of the four Appellate Divisions of the Supreme Court.

The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board of the Courts and promulgates them after approval by the Court of Appeals.

The Chief Administrator, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts, called the Office of Court Administration (OCA). In this task, he is assisted by two Deputy Chief Administrative Judges, who supervise the day-to-day operations of the trial courts in New York City and in the rest of the state, respectively; a Deputy Chief Administrator, who supervises the operations of the units that make up the Office of Management Support; and a Counsel, who directs the legal and legislative work of the Counsel's Office.

The Office of Management Support provides the administrative services required to support all court and auxiliary operations. These services include personnel and budget administration; programs and planning operations; operational services; educational programs for judges and nonjudicial personnel; public information services; employee relations; equal employment opportunity programs; the Office of Inspector General; and the Community Dispute Resolution Centers Program.

Counsel's Office prepares and analyzes legislation, represents the Unified Court System in litigation, and provides various other forms of legal assistance to the Chief Administrator of the Courts.

Responsibility for on-site management of the trial courts and agencies is vested with the Administrative Judges. In each upstate judicial district, there is a District Administrative Judge who is responsible for supervising all courts and agencies. In New York City, Administrative Judges supervise each of the major courts, and the Deputy Chief Administrative Judge provides for management of the complex of courts and court agencies within the City. As a result of an internal management reorganization in 1981, the Administrative Judges not only manage court caseload, but are responsible as well for general administrative functions, including personnel and budget administration and all fiscal procedures.

Chapter 156 of the Laws of 1978 implements the constitutional provisions on the administrative supervision of the court system. Sections 211-213 of Article 7-A of the Judiciary Law set forth the administrative functions of the Chief Judge, the Chief Administrator, and the Administrative Board. (See Figure 2.)

1.3 Court Finances

For the New York State fiscal year ending March 31, 1984, the anticipated expenditures for operating all the state courts, except town and village justice courts, were $555.7 million.

1.4 Key Developments in the Unified Court System.

Events of 1983 severely tested the Unified Court System. Caseload increases of the past several years continued unabated while the state's fiscal problems prevented the court system from staffing up to meet the full effect of that workload. However, the judges, justices and nonjudicial employees who are the Unified Court System exerted maximum effort and, in the face of limited resources and continually increasing caseflow, made significant gains in case disposition.

1.4.1 Caseload Activity—1979-1983

A continuing rise in the number of new cases filed and the achievement of higher levels of case disposition are the principal characteristics of caseload activity throughout the Unified Court System. (See Chapter 2, Caseload Activity Report, 1983.)

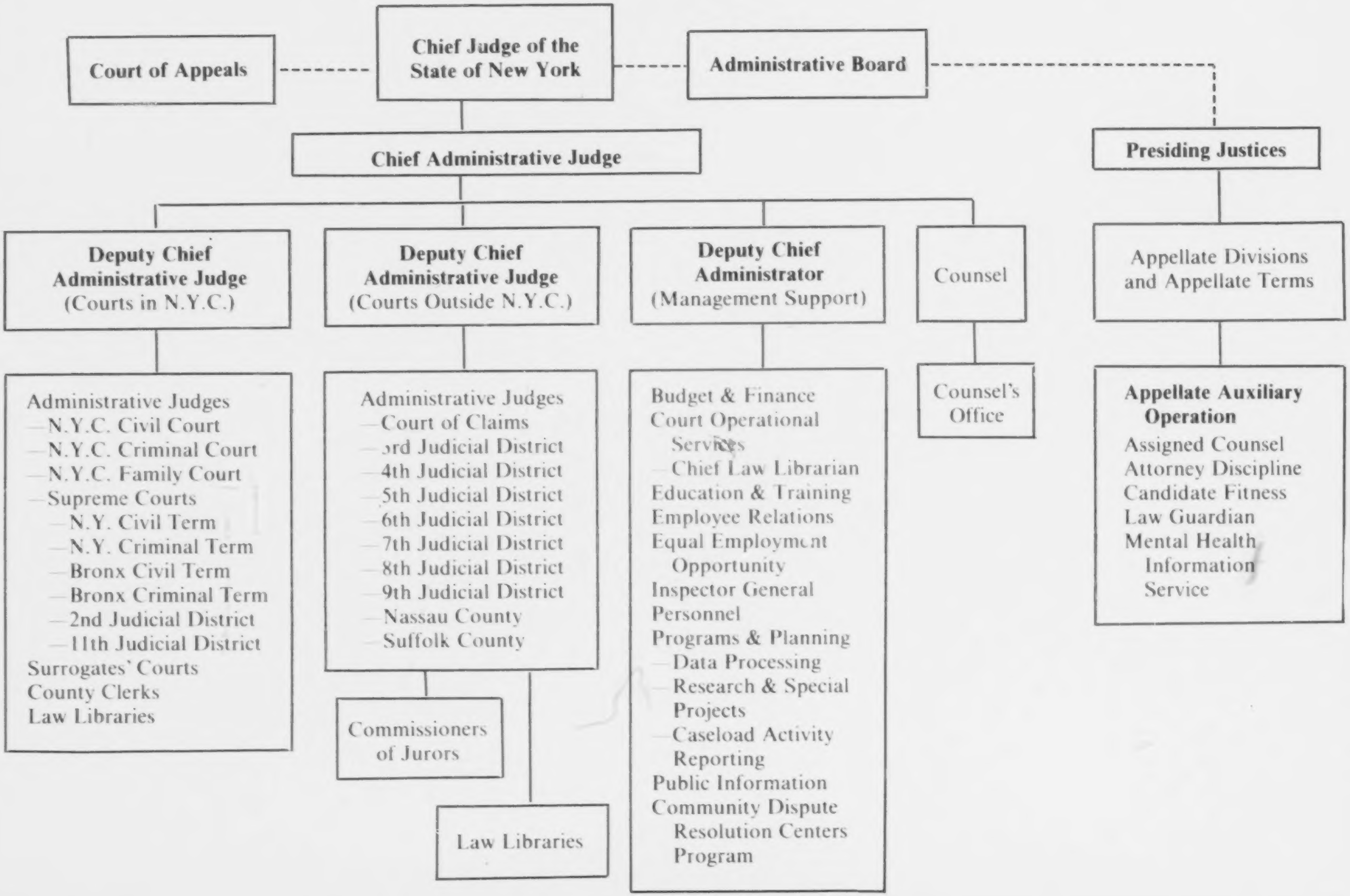
A total of over 2.2 million cases (2,217,673) were disposed of in 1982 in all courts, compared with just over 2 million (2,008,106) in 1981, an increase of 10 percent. Compared with 1979, when 1,894,496 cases were disposed of, the increase was 17 percent. The estimated total number of dispositions for 1983 was 2.4 million, an increase of 27 percent over 1979.

Caseload activity reports for the first 10 months of 1983 in the Supreme and County Courts showed another notable rise in dispositions compared with 1982. Felony dispositions in these courts increased by 25 percent, with a 35 percent increase in New York City where 60 percent of the state's felony cases are filed. Supreme Court civil case dispositions through the first 10 months of 1983 were up by 9 percent over 1982.

Family Court data for the first six months of 1983 indicated a 5 percent increase in dispositions statewide compared with 1982. Dispositions in the New York City Civil Court were up by 7 percent in the first half of 1983. In the New York City Criminal Court, which accounts for about 40 percent of all calendared criminal case intake statewide, dispositions during the first nine months of 1983 rose by 21 percent over the comparable 1982 period.

These increases in judicial output came at a time when the principal measure of court workload—new case filings—continued to spiral sharply upward. Filings in all, courts statewide were up by 20 percent in 1982 over 1981 (motor vehicle cases excluded) and by 27 percent compared with 1979. Criminal case filings (summons and motor vehicle cases excluded) were up by 48 percent statewide in 1982 over 1981.

Figure 2
UNIFIED COURT SYSTEM
ADMINISTRATIVE STRUCTURE


Court of Appeals
Chief Judge of the State of New York
Administrative Board
Chief Administrative Judge
Presiding Justices
Deputy Chief Administrative Judge (Courts in N.Y.C.)
Deputy Chief Administrative Judge (Courts Outside N.Y.C.)
Deputy Chief Administrator (Management Support)
Counsel
Appellate Divisions and Appellate Terms
Administrative Judges
—N.Y.C. Civil Court
—N.Y.C. Criminal Court
—N.Y.C. Family Court
—Supreme Courts
—N.Y. Civil Term
—N.Y. Criminal Term
—Bronx Civil Term
—Bronx Criminal Term
—2nd Judicial District
—11th Judicial District
Surrogates' Courts
County Clerks
Law Libraries
Administrative Judges
—Court of Claims
—3rd Judicial District
—4th Judicial District
—5th Judicial District
—6th Judicial District
—7th Judicial District
—8th Judicial District
—9th Judicial District
—Nassau County
—Suffolk County
Commissioners of Jurors
Law Libraries
Budget & Finance
Court Operational Services
—Chief Law Librarian
Education & Training
Employee Relations
Equal Employment Opportunity
Inspector General
Personnel
Programs & Planning
—Data Processing
—Research & Special Projects
—Caseload Activity Reporting
Public Information
Community Dispute Resolution Centers Program
Counsel's Office
Appellate Auxiliary Operation
Assigned Counsel
Attorney Discipline
Candidate Fitness
Law Guardian
Mental Health Information Service

In New York City, felony filings in the Supreme Court in 1982 were higher by 72 percent compared with 1979. Meanwhile, statewide civil case filings in the Supreme Courts in 1982 rose by 10 percent over 1981 and were up by 17 percent compared with 1979. The increase continued during the first 10 months of 1983, amounting to 12 percent.

Disposing of the workload in the New York City Criminal Court in 1982 required judges to preside over one million calendared court appearances (1,017,821), an increase of 17 percent over 1981. In 1983, a 23 percent increase in calendared appearances in this court occurred during the first nine months compared with 1982 as filings rose by 17 percent.

The New York City Civil Court's intake in 1982 was slightly over one-half million cases (505,535), up 21 percent over 1981. Nearly 700,000 calendared appearances (698,278) were heard statewide in the Family Courts in 1982 (up 3% compared with 1979) as filings increased by 5 percent over 1981 and by 10 percent over 1980. Intake was up again in 1983, by 6 percent, in the Family Courts.

1.4.2 Budget Process and Format

Several significant steps were taken in 1983 in the development of the budget process of the trial courts and related agencies. Positive results now can be seen from placing responsibility for operational budget and fiscal functions with the Administrative Judges' offices throughout the trial court system. The process of projecting needs for 1984-85 was a most rigorous one, involving initial preparation by the courts and agencies, review by the Administrative Judges' offices, and hearings conducted by the Unified Court System's Office of Management Support on behalf of the Chief Administrative Judge.

Budget development and review took place within specific guidelines. For example, inflation factors were established which drew upon the conclusions of outside professional forecasting sources and state fiscal managers, and included the findings of the New York State Budget Division Economic Forecasting Model.

Changes were also made in the format of the budget presentation. Since the inception of state takeover, the Office of Court Administration has continuously developed budget policy and organization. In the first several years the budget was organized along geographic lines to provide for the informational requirements of the funding transition. Budget organization later shifted from the geographic focus to an organization based on type of court or agency or function. During this period effort was also directed to developing staffing criteria and workload data for each type of court and agency.

The budget for 1984-85 reflected the next major step in the budget development process. The program structure in use for several years was maintained, while each program was presented in terms of the administrative units responsible for managing the program. In this way, management, resources and workload were linked at a more meaningful level. Court system managers and budget reviewers were then able to more effectively review the utilization of resources available and needed, as against the functions and caseload of each program within the court system.

1.4.3 Back Office Operations in the Trial Courts

The combined effects of caseload growth, new legislative enactments and the success of programs to reduce court congestion and trial delay have substantially increased back office workload in recent years. These workload increases, which have not been matched with needed additional staff, have resulted in ever increasing delays in the processing of essential court papers and backlogs in such routine clerical functions as filing and statistical reporting.

Automated technology can be used effectively to reduce certain back office problems. Such operations as calendaring, Family Court petition and order preparation, and statistical reporting can benefit from the use of microcomputers and word processors. In the 1983-1984 fiscal year, such equipment was installed in medium and high volume courts and agencies with notable results. Expansion of office automation equipment into additional court locations to further reduce lays and backlogs is a high priority for the 1984-85 fiscal year.

While automation already has begun and is expected further to reduce back office workload problems, its use cannot be viewed as the entire solution. Additional personnel still will have to be provided to perform functions which cannot be entirely routinized or where resolution of issues transcends the capacities of computerization.

1.4.4 Computerization

Mainframe computers will continue to be used for current systems and to expand systems where a centralized data processing approach is most appropriate.

The Criminal Case Processing System reports dispositions to the State Division of Criminal Justice Services, produces daily court calendars and provides reports on caseload activity. This system was operating in 13 courts by the end of 1983 and is supported by six minicomputers, peripheral hardware and software maintained and operated by the Office of Court Administration.

The newly designed Family Court Case System was implemented in New York City during 1983-84. This system automatically creates and updates a case-related data base; records court activity; schedules cases; prints calendars, orders and petitions; and provides case inquiry and tracking capability for the full range of Family Court cases.

The Jury Management System provides an automated capability for the juror qualification, summoning and payment functions of Jury Commissioners. The system also updates individual juror service records and provides data useful for analyzing various aspects of jury operations. The system is in operation in all counties in Judicial Districts Three to Eight, Nassau, Suffolk and Westchester Counties, and four of five counties in New York City.

The Civil Case Processing System is an automated case calendaring and tracking system and is on line now in Nassau and Westchester Supreme Courts. Expansion to the Suffolk and Erie County Supreme Courts is planned for 1984-85.

In 1983, an automated records management and information system was designed for the New York City Housing Court. System implementation in this high-volume paper-intensive operation will begin in 1984-85.

Every judicial district now shares the centrally stored database of the Caseload Activity Reporting System, which provides standardized reports on caseload activity and the status of inventories in all Criminal, Civil and Surrogates' Courts except the New York City Civil and Criminal Courts. System expansion to include all Family Courts is now underway.

1.4.5 Civil Transfer Plan

The Civil Transfer Plan, established in 1980 to reduce civil case backlogs, will be continued at a reduced level in 1984-85. In 1983, 19 Civil Transfer Plan parts were continued in New York City. Beginning in January 1984, 12 parts will operate under this plan. Ten parts will be continued in New York City and one part each will be established in Westchester and Erie Counties.

Additional judicial help will be provided to the New York City Supreme Court (and others) through the designation of Acting Justices of the Supreme Court. Section 26 of Article 6 of the New York State Constitution permits the designation of county level judges and New York City Civil, Criminal and Family Court Judges as Acting Justices of the Supreme Court. During the 1984-85 fiscal year, more than 140 judges will be serving in this capacity. This has its most significant impact in New York City, where about 120 Civil and Criminal Court Judges have been serving as Acting Supreme Court Justices.

1.4.6 New York City Housing Court

The most significant portion of the New York City Civil Court's workload relates to enforcement of housing maintenance standards. Landlord and Tenant Housing Parts hear extremely sensitive and emotionally charged rental disputes and housing maintenance and multiple dwelling code enforcement cases. Over the past five years workload in this category has grown by over 200 percent.

Faces with this crisis in the Housing parts, a number of actions have been taken, including the transfer of 25 positions to this court from other New York City courts and agencies. Additional housing trial parts run by Civil Court judges were opened to lessen the burden on the limited number of existing Housing Court judges. Present rates of increase in other civil filings, however, make this solution one of limited duration. An experimental Housing Court mediation program also was undertaken to divert some cases from the court calendars. The mediation program is jointly sponsored by the Civil Court and the New York City Department of Housing Preservation and Development. It operates in New York, Bronx, Kings and Queens Counties, using specially trained law assistants to preconference and mediate cases and students to assist mediators and Housing judges who hear these cases.

Even with these improvements, litigants in Housing parts still are subject to long waits and repeated appearances, and Housing judges still are overworked.

1.4.7 New York City Criminal Court

New York City Criminal Court has general jurisdiction over all offenses and misdemeanors and conducts arraignments and pretrial hearings in felony matters. The volume of transactions handled by this court exceeds that of any other court unit in the state. During 1982 there were over one million calendared appearances in this court (1,017,821), up 17 percent from 1981. Over 200,000 arrest cases (221,541) were filed in this court during 1982 (up 18 percent) and 204,617 were disposed of (up 12 percent). Nearly 600,000 summons cases (597,779) were filed, an increase of 57 percent. Of these, 132,121 required arraignment (up 29 percent) and 143,463 reached disposition (up 24 percent). During the first six months of 1983, activity increased by about 25 percent as compared with the same period in 1982.

In order to process the caseload, the Criminal Court now operates seven days a week, 365 days a year. The Unified Court System has, as a result, begun a major effort to design and implement an automated records management and information system for this high volume court. The project now underway will design and install an automated system that will accomplish the file creation, case indexing, case docketing, calendaring, case tracking and inquiry, and caseload activity reporting functions performed by clerks of the Criminal Court.

The project will also describe the manner in which the system will provide case disposition information to the State Division of Criminal Justice Services, and the manner in which felony complaint records in the Criminal Court will link to the records management and information systems of the Criminal parts of the Supreme Court in New York City. The design phase of the project is scheduled to be completed by April 1, 1984.

1.4.8 Judicial Hearing Officers

Chapter 840 of the laws of 1983 amends the Judiciary Law, the Civil Practice law and Rules, the Criminal Procedure Law and the Retirement and Social Security Law in relation to judicial hearing officers.

The intent of this bill was to attack court backlogs by allowing continued service by experienced former judges on a part-time basis. Under provisions of this bill, former judges and justices may be designated to preside over certain civil matters, rule on pretrial motions in criminal matters and preside over nonjury trials involving minor crimes.

Under the authority granted in chapter 840, the Chief Administrator promulgated rules governing the implementation of this legislation.

1.4.9 Community Dispute Resolution Centers Program

Established pursuant to Chapter 847 of the Laws of 1981, this program provides financial and operational support to locally operated neighborhood centers for the resolution of minor disputes, including many that now clog the courts of limited jurisdiction and contribute to delays and backlogs in the court system. The original statute contains a "sunset" provision under which authorization for the program ceases October 1, 1984. The Chief Adminsitrator has submitted legislation institutionalizing this program.

Through this program, grants are awarded covering up to 50 percent of the total budget for those centers which meet the program's requirements. In fiscal 1983-84, a total of 36 mediation centers operated in 38 counties.

The 1982-83 workload reflects a substantial increase over 1981-82, the first fiscal year of operation. The total of 15, 280 disputes handled by the 20 mediation programs in 1982-83 reflects a 59 percent increase over the 9,593 disputes handled by 17 mediation programs in 1981-82. Contributing to this increase were the addition of three programs in 1982-83; the development of many of the 17 programs into fully operational programs; the influx of more types of cases, including criminal harassment cases, family disputes and landlord-tenant cases; increased public awareness of the benefits of mediation facilitated by existing dispute resolution centers; and the increase in referrals made by the courts, district attorneys offices, police departments, schools and social service agencies.

In 1982-83, a total of 52,060 people were involved in the 15,280 disputes handled by the 20 mediation programs,and $157,924 in restitution was involved in the dispute resolution agreements.

It is projected that during fiscal year 1983-84, the 16 additional programs developed in 1983 and the 20 established dispute resolution centers will continue to increase their workload capacity. Based on current workload indicators, 17,572 cases, an increase of 15 percent, will be resolved through conciliation-mediation-arbitration and diverted from the justice system. In addition, contacts and referrals to the centers providing a number of additional services to citizens and the justice system are projected to increase to 70,000, a 28 percent increase over the previous year.

1.4.10 Arbitration Programs

Under the Chief Judge's Plan to Reduce Court Congestion, the civil courts of limited jurisdiction in 31 counties are making use of compulsory arbitration by panels of lawyers to resolve minor civil disputes, that is, civil actions where the amount sought is $6,000 or less. In 1983, these programs disposed of 16,875 such disputes. In 12.8 percent of the disposed cases, there was a demand for a trial *de novo*.

1.4.11 Law Library and Legal Reference Network

Substantial funding reductions and severe cost increases in the legal reference material industry during the past several years combined to seriously impair the ability of law libraries to provide needed services. In recognition of the need to significantly improve the management of the libraries, a Chief Law Librarian was appointed in 1982. This position is responsible for establishing acquisition policies and procedures, evaluating and implementing automated systems and creating an effective library network.

Several significant administrative policies and procedures were implemented in 1983. These included review and approval by the Chief Law Librarian of all proposed legal reference expenditures; negotiation of bulk purchase agreements with several of the largest legal reference publishers, saving over $500,000 annually; centralized billing; and redistribution of legal reference resources to ensure that all trial courts, agencies and libraries are provided with the basic collections necessary for legal research. As a result of these policies, which aim to create a true legal reference network operating in an efficient environment, major improvements and savings were made in the management of legal reference appropriations.

1.4.12 Jury Management

A program to achieve the greatest possible efficiencies in the the utilization of jurors has been underway in the Unified Court System since the spring of 1982. During the first year, three counties were selected as pilot sites for the collection and analysis of data on juror utilization. In May 1983, the program was expanded to 23 jury assembly rooms in 12 counties, with several additional counties expected to become part of the program.

These counties complete daily assembly room transaction forms and submit them to the Office of Court Administration for computerized analysis and production of management reports. These reports are sent to the two Deputy Chief Administrative Judges and to the Administrative Judge and Commissioner of Jurors at each site.

To date, two principal utilization measures have been emphasized. The first is "overcall", defined as the percentage of prospective (paid) jurors not in use in *vior dire* or trial at the point of peak daily juror usage. The second is "percent to*vior dire,*", defined as the percentage of prospective (paid) jurors reporting to the pool who are sent to *vior dire* (whether examined or not).

1.4.13 Constitutional Amendments Affecting the Trial Courts

At the 1983 general election, two constitutional amendments affecting the Unified Court System were approved by the voters.

The first measure amended section 26(f) of Article VI of the Constitution in relation to temporary assignments of Family Court Judges. Formerly, such judges, like those of County Court, could be assigned to temporary service on any County Court, Family Court, or Surrogate's Court outside New York City, or to the New York City Civil or Criminal Courts. Unlike those of County Court, however, judges of Family Court could not be assigned to Supreme Court. This measure removed that restriction, providing that a judge of the Family Court may be assigned to serve temporarily on the Supreme Court in the judicial department of his or her residence.

A second measure amended sections 11(a), 15(b) and 16(d) of Article VI of the Constitution to increase the jurisdictional ceilings for civil actions seeking monetary damages in County Court, New York City Civil Court and District Court. For County Court, the jurisidictional amount was increased from $10,000 to $25,000; for Civil Court, from $10,000 to $25,000 (although the Legislature would be free to set a lesser amount); and for District court, from $6,000 to $15,000. The exact impact on court workload due to these changes in the monetary jurisdiction in civil matters cannot be determined at this time. Prior experience with such increases suggests, however, that a shift in caseload from the Supreme Court to the Civil Court in New York City and to the District Courts of Nassau and Suffolk Counties could require a minor redistribution of resources among these courts.

1.4.14 Other Significant Legislation

The 1983 legislative session produced a number of important measures proposed or supported by the Judiciary. Significant measures enacted by the Legislature and approved by the Governor were the following:

Chapter 28, clarifying that a grand jury may not indict when corroboration that is required as a matter of law to convict has not been adduced before it;

Chapter 119, providing that in each Family Court proceeding, a copy of the petition shall be served upon petitioner at the time of service of process;

Chapter 170, permitting a court in a criminal proceeding to reserve decision on a motion to dismiss until the verdict has been rendered and accepted;

Chapter 317, authorizing discovery in criminal cases arising out of simplified information;

Chapter 318, permitting a court in a civil action to excuse delay or default resulting from law office failure, as an exercise of its discretion.

Consistent with a longstanding commitment to cost containment and improvement of the judicial process, the Judiciary continued its support of a number of notable legislative measures, including proposals to vest primary responsibility for the conduct of *voir dire* in a criminal case in the trial judge, to establish an appellate court for the review of felony sentences, to mandate merger of the trial courts of the Unified Court System and to permit deliberating juries in criminal cases to separate overnight and on weekends.

1.5 Other Administrative Actions Of The Chief Judge And The Chief Administrative Judge

In 1983, Chief Judge Lawrence H. Cooke, pursuant to Article VI, section 28, of the New York State Constitution, upon consultation with the Administrative Board of the Courts and with the approval of the Court of Appeals, promulgated a standard and administrative policy establishing guidelines for New York State court facilities. The new standard and administrative policy, effective July 5, 1983, became Part 34 of the Rules of the Chief Judge (22 NYCRR Part 34).

The Chief Judge, also pursuant to Article VI, section 28, of the Constitution, and upon consultation with the Administrative Board and with the approval of the Court of Appeals, amended section 17.2 of part 17 of the Rules of the Chief Judge, a standard and administrative policy governing the training and education of town and village justices. The amended rule, which took effect on January 1, 1984, increases the frequency of training for each justice from once every four years to once every year and requires lawyer justices, as well as nonlawyer justices, to attend the advanced training courses.

In addition, former Chief Administrative Judge of the Courts Herbert B. Evans, exercising powers delegated by the Chief Judge or by statute, and at the direction of the Chief Judge, took several significant action. Pursuant to section 468-a of the Judiciary Law, he amended section 118.2 of the Rules of the Chief Administrator (22 NYCRR 118.2) to establish a fee schedule for the production of attorney registration information, effective January 10, 1983. Pursuant to Chapter 353 of the Laws of 1982, he amended Part 107 of the Rules of the Chief Administrator (22 NYCRR Part 107) to add new section 107.5 and 107.6 (22 NYCRR 107.5, 107.6), relating to salary schedules for nonjudicial personnel, effective April 1, 1983, with respect to section 107.5 and September 1, 1983, with respect to section 107.6. Judge Evans also amended Part 116 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 116), governing the Community Dispute Resolution Centers Program, by adding a new section 116.8 (22 NYCRR 116.8), relating to the retention of records, effective March 16, 1983.

Pursuant to the authority vested in the Chief Administrator of the Courts and with the consent of the Administrative Board of the Courts, Judge Evans adopted a new rule, effective June 1, 1983, governing the calendar control of financial disclosure in actions and proceedings in the Supreme Court involving alimony, maintenance, support, and equitable distribution, including those referred to Family Court pursuant to section 464 of the Family Court Act. The new rule became Part 117 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 117).

Simultaneously, Judge Evans amended 22 NYCRR 660.22, 699.11, 863.4 and 1039.14, relating to matrimonial actions and proceedings in the First, Second, Third and Fourth Judicial Departments. Also simultaneously, he repealed 22 NYCRR 660.23 and 699.12, relating to matrimonial actions and proceedings in the trial courts within the First and Second Judicial Departments.

Judge Evans, effective July 1, 1983, prescribed forms for use in proceedings in the Family Court pursuant to section 214 of the Family Court Act and in accordance with 22 NYCRR 250.2. This promulgation of forms, which replaced former Article 7 forms and added forms to implement new Article 3 of the Family Court Act, was necessitated by chapters 920 and 926 of the Laws of 1982.

Effective June 24, 1983, Judge Evans, after consultation with the Appellate Division, Fourth Judicial Department, repealed Part 3496 of the Rules of the City Court of the City of Rochester (22 NYCRR Part 3496), relating to compulsory arbitration, which had been superseded by Part 28 of the Rules of the Chief Judge (22 NYCRR Part 28), governing the Alternative Method of Dispute Resolution by Arbitration.

Chief Administrative Judge Robert J. Sise, who succeeded Judge Evans in that office on August 5, 1983, also took several significant administrative actions.

Effective December 2, 1983, pursuant to Article VI, section 20(c), of the Constitution, and with the approval of the Court of Appeals, Judge Sise repealed paragraph (5) of subdivision (c) of section 100.5 of the Judicial Conduct Rules (22 NYCRR 100.5(c) (5)), which prohibited the solicitation or acceptance of gifts by judges for performing weddings.

Paragraphs (6) and (7) of subdivision (c) of section 100.5 were renumbered as paragraphs (5) and (6). This provision was repealed in response to the enactment of section 805-b of the General Municipal Law by Chapter 433 of the Laws of 1983, with which the rule was partly inconsistent. Simultaneously Judge Sise, also pursuant to Article VI, section 20(c), of the Constitution, with the approval of the Court of Appeals, amended subdivision (e) of section 100.5 of the Rules of the Chief Administrator to permit a part-time judge acting as an arbitrator or a mediator to do so for compensation.

Also, pursuant to the power vested in the Chief Administrator of the Courts by Article 22 of the Judiciary Law, and after consultation with the Administrative Board of the Courts, Judge Sise promulgated a new Part 122 of the Rules of the Chief Administrator (22 NYCRR Part 122), effective December 27, 1983, establishing a Judicial Hearing Officer Program in the Unified Court System.

Table 1
NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges
December 31, 1983

Number of Judges		*Court*
7		Court of Appeals
48[a]		Supreme Court, Appellate Divisions
274[a,b]		Supreme Court, Trial Parts
44[a]		Supreme Court, Certificated Retired Justices
17		Court of Claims
15		Court of Claims - Judges apointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program, as amended by Chapters 500, 501, Laws of 1982.
34		Surrogates' Courts - including 6 Surrogates in the City of New York
67		County Courts - County Judges, outside the City of New York, in counties that have separate Surrogates and Family Court Judges
10		County Courts - County Judges who are also Surrogates
8		County Courts - County Judges who are also Family Court Judges
31		County Courts - County Judges who are also Surrogates and Family Court Judges
114		Family Courts - including 42 Family Court Judges in the City of New York
107		Criminal Court of the City of New York
120		Civil Court of the City of New York
49		District Courts - in Nassau and Suffolk Counties
167[d]		City Court in the 61 Cities outside the City of New York, including Acting and Part-time Judges
1,112	Total	
2,327		Town and Village Justice Courts

[a] In addition to the 24 Supreme Court Justices permanetly authorized, 16 Justices and 8 Certificated Retired Justices were temporarily designated to the Appellate Division.

[b] Does not include judges of other courts, especially the Civil and Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year.

[c] Does not include the additional 11 Civil Court Judgeships authorized by the 1982 Session Laws, Chapter 500, but still not filled.

[d] Does not include the changes in the City of Yonkers authorized by the 1980 Session Laws, Chapter 513: effective January 1, 1984, the remaining 2 City Justice positions were abolished.

Chapter 2

Caseload Activity Report

2.1 Introduction

There were 2,394,422 filings in the trial courts of the Unified Court System during 1983.[1,2] Forty-nine percent (1,175,508) were filed in criminal courts, 31% (730,622) in civil courts, 15% (366,644) in the Family Courts, and 5% (121,648) in the Surrogates' Courts.

Dispositions in the trial courts during 1983 totaled 2,452,772[2] as follows: criminal courts—45%, civil courts—32%, Family Courts—15%, Surrogates' Courts—8%.

Table 2 shows a breakdown of filings and dispositions in the trial courts by type of court.

2.2 Criminal Cases

Criminal cases are processed in the trial courts as follows: Felony indictments and superior court informations are processed in the Criminal Terms of Supreme Court in New York City and in the County Courts outside of New York City. In several counties outside of New York City, a portion of the felony caseload is processed in the Supreme Court as well. The courts of limited jurisdiction—Criminal Court of the City of New York, District Courts of Nassau and Suffolk, and City, Town, and Village Courts outside of New York City—have original jurisdiction over felonies and complete jurisdiction over misdemeanors, violations, and infractions.

Criminal Terms of Supreme and County Courts

Filings: Statewide, 47,340 criminal cases were filed in the Supreme and County Courts during 1983.[3] This level of new filings was almost identical with the 1982 level of 47,363, but was a 14% increase from the 41,457 filings in 1981. Fifty-nine percent (28,040) of 1983 filings occurred in New York City, where the level of intake dropped 1% from the previous year. Compared with 1981, however, the Supreme Courts in New York City experienced a 24% increase in filings in 1983.

Table 3 shows a breakdown of filings by Judicial District and the percentage change from 1982. The greatest rate of increase was in the 8th JD, where filings increased 16% from 2,291 in 1982 to 2,658 in 1983. In the 11th JD, filings increased 12%, from 4,330 to 4,865. The biggest decreases were in the 10th and 12th JDs.

Table 4 focuses on individual counties, ranking the top ten by volume. Ten of the sixty-two counties accounted for 81% of all filings. The four major counties of New York City accounted for 58% (27,664) of the statewide total. New York County had the highest volume, with 10,230 filings. The county grouping commonly referred to as the "Big Six"—Suffolk, Nassau, Westchester, Erie, Monroe, and Onondaga—had 10,871 filings, which was nearly one-quarter of the statewide total.

Dispositions: Statewide, 52,049 cases reached disposition (guilty plea, trial verdict, dismissal, or other) in 1983.This total represents a 21% increase from 1982, when 43,101 cases were disposed.

Sixty percent of statewide dispositions were in New York City. The 31,209 New York City felony-case dispositions in 1983 were a 30% increase over the 23,930 of 1982.

Table 5 shows dispositions by Judicial District and the percentage change from 1982. In all Districts, more dispositions occurred in 1983 than in the previous year. Outside of New York City, the greatest increases were in the 8th and 9th JDs.

Table 6 ranks the top ten counties by volume. The same ten counties with the largest volume of felony filings also showed the largest volume of felony dispositions, accounting for 82% of all dispositions statewide.

Figure 3 shows felony dispositions statewide by type. There were 40,420 (78%) guilty pleas, 6,036 (11%) dismissals, 4,574 (9%) trial verdicts, and 1,019 (2%) other dispositions. The nature of the dispositions was somewhat changed from the previous year. In 1982, pleas accounted for 74% of dispositions, verdicts for 10%, dismissals for 14%, and other dispositions for 2%.

Table 7 shows the number of felony trials commenced statewide in 1983. There were 5,292 trials commenced, a 6% increase from the 5,012 commenced in 1982.[4] Table 8 shows that ten counties accounted for 84% of the felony trials commenced statewide in 1983.

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[1] All data in this chapter are from the Caseload Activity Reporting System of the Unified Court System. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrator of the Courts 22 NYCRR 115.

[2] Excludes 5 Town and Village Courts. An estimated additional two million cases were filed and disposed in these courts in 1983 (data not yet available).

[3] "Cases" are a count of "defendant-indictments," i.e., each defendant on each indictment counts as one case.

[4] Trials commenced is the actual number of trials, i.e., trials with multiple defendants are recorded as one trial.

Table 2
FILINGS AND DISPOSITIONS IN THE TRIAL COURTS
1983

Court	*Filings*	*Dispositions*
CRIMINAL:		
Supreme and County Courts	47,340	52,049
Criminal Court of the City of New York:		
Arrest Cases	240,596	231,899
Summons Cases	173,691	167,509
City and District Courts outside New York City:		
Arrest Cases	257,280	202,811
Motor Vehicle Cases	456,601[a]	456,601
CRIMINAL SUBTOTAL	1,175,508	1,110,869
CIVIL:		
Supreme Court	68,129	69,446
Supreme Court-Uncontested Matrimonial	53,119	57,697
Civil Court of the City of New York:		
Civil Actions	37,377	31,915
Civil Actions--Default Judgments	136,789[b]	136,789
Small Claims	57,125	61,777
Landlord/Tenant Summary Proceedings	116,892	138,153
Landlord/Tenant Summary Proceedings--Default Judgments	134,699[b]	134,699
Landlord/Tenant Actions and Special Proceedings	7,727	7,973
City and District Courts outside New York City:		
Civil Actions and Summary Proceedings	65,563[c]	61,403[d]
Small Claims	47,102	46,687
County Courts	2,677	2,592
Court of Claims	1,544	1,429
Arbitration Program	16,344[e]	16,875
Small Claims Assessment Review Program	1,879	1,712
CIVIL SUBTOTAL	730,622	769,147
FAMILY	366,644	376,392
SURROGATES'	121,648	196,364[f]
TOTAL	2,394,422	2,452,772

[a] The disposition figure is used as intake. Intake data are not available for fine payments processed in the clerks offices.

[b] The disposition figure is used as intake. This is the number of cases filed in which there was no answer, but in which a default judgment was entered. These cases were not calendared.

[c] Includes 1,316 uncalendared cases that were referred to the Arbitration Program.

[d] Does not include referrals to Arbitration

[e] Shown here for reference only and not included in totals. Recorded as intake in the civil courts listed immediately above.

[f] Surrogates' Court output includes orders signed, decrees signed, letters issued, and opinions and memoranda issued resulting in disposition.

Table 3
DEFENDANT-INDICTMENTS FILED BY JUDICIAL DISTRICT
1983

Judicial District	*Filings*	*Change from 1982*
New York City		
1st	10,230	- 3%
2nd	7,903	+ 3%
11th	4,865	+ 12%
12th	5,048	- 12%
Subtotal	(28,046)	(- 1%)
Outside New York City:		
3rd	1,290	+ 5%
4th	1,245	- 1%
5th	2,177	+ 6%
6th	1,562	- 1%
7th	2,241	+ 3%
8th	2,658	+ 16%
9th	2,931	+ 6%
10th-Nassau	2,350	- 10%
10th-Suffolk	2,840	- 10%
Subtotal	(19,294)	+ 1%
Statewide Total	47,340	no change

Table 4
DEFENDANT-INDICTMENTS FILED BY TOP TEN COUNTIES
1983

County	*Filings*	
New York	10,230	
Kings	7,501	
Bronx	5,048	
Queens	4,865	
Suffolk	2,840	
Nassau	2,350	
Westchester	1,768	
Erie	1,531	
Monroe	1,282	
Onondaga	1,100	
Total	38,515	(81% of Statewide Supreme and County Court Criminal-Case Filings).

Table 5
FELONY DISPOSITIONS BY JUDICIAL DISTRICT
1983

Judicial District	*Dispositions*	*Change from 1982*
New York City		
1st	11,296	+ 35%
2nd	8,917	+ 29%
11th	5,123	+ 28%
12th	5,873	+ 26%
Subtotal	(31,209)	(+ 30%)
Outside New York City:		
3rd	1,360	no change
4th	1,311	+ 2%
5th	2,344	+ 5%
6th	1,686	+ 1%
7th	2,161	+ 3%
8th	2,874	+ 20%
9th	3,140	+ 19%
10th-Nassau	2,569	+ 5%
10th-Suffolk	3,395	+ 11%
Subtotal	(20,840)	(+ 9%)
Statewide Total	52,049	+ 21%

Table 6
FELONY DISPOSITIONS BY TOP TEN COUNTIES
1983

County	*Dispositions*	
New York	11,296	
Kings	8,472	
Bronx	5,873	
Queens	5,123	
Suffolk	3,395	
Nassau	2,569	
Westchester	1,818	
Erie	1,794	
Onondaga	1,243	
Monroe	1,238	
Total	42,821	(82% of Statewide Supreme County Court Criminal-Case Dispositions).

Figure 3
FELONY DISPOSITIONS
BY TYPE OF DISPOSITION
1983

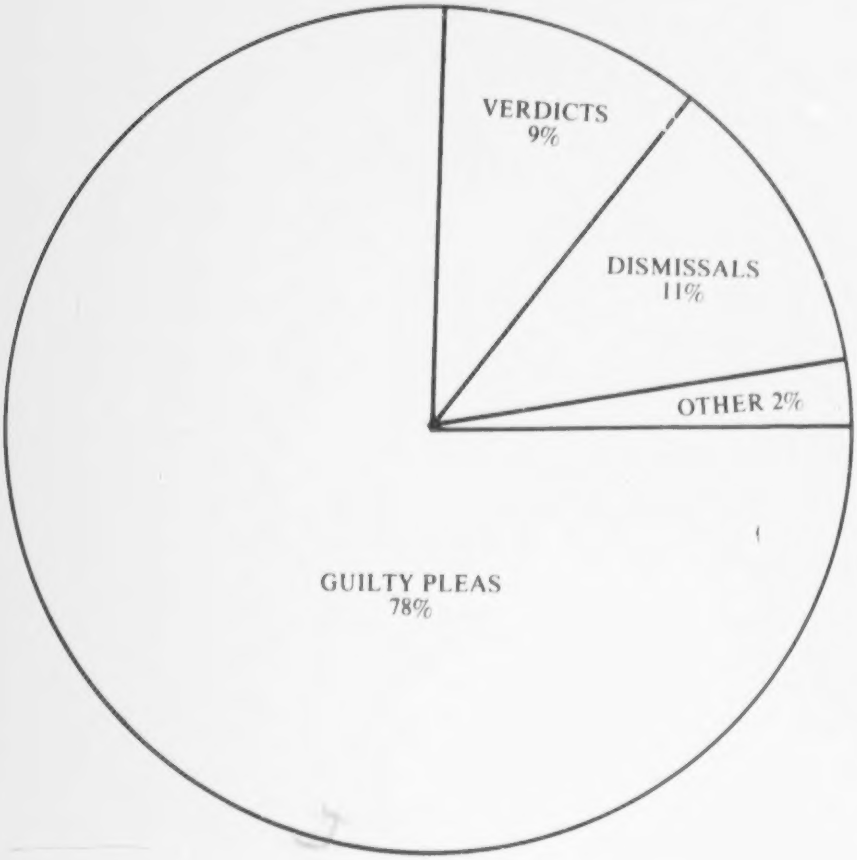

Table 7
FELONY TRIALS COMMENCED BY JUDICIAL DISTRICT
1983

Judicial District	*Trials Commenced*
New York City:	
1st	1,029
2nd	921
11th	700
12th	758
Subtotal	(3,408)
Outside New York City:	
3rd	179
4th	98
5th	148
6th	208
7th	251
8th	350
9th	257
10th-Nassau	192
10th-Suffolk	201
Subtotal	(1,884)
Statewide Total	5,292

Table 8
FELONY TRIALS COMMENCED BY TOP TEN COUNTIES
1983

County	*Trials Commenced*	
New York	1,029	
Kings	867	
Bronx	758	
Queens	700	
Erie	229	
Suffolk	201	
Nassau	192	
Westchester	186	
Monroe	186	
Onondaga	97	
Total	4,445	(84% of Statewide Supreme and County Court Criminal-Case Trials Commenced).

Criminal Courts of Limited Jurisdiction

Criminal Court of the City of New York: There were 240,596 arrest-case dockets filed in the Criminal Court of the City of New York in 1983. There were 231,899 dispositions in this period. These figures were increases of 8% in filings and 13% in dispositions compared with 1982.

Of the dispositions, 54% were by guilty plea, 28% by dismissal, 11% by referral to grand jury, 1% by verdict, and 6% were other dispositions. This distribution is nearly identical to that of 1982.

There were 173,691 summonses added to the calendar. (In addition, nearly half a million summonses were filed to which defendants did not respond.) There were 167,509 dispositions. Both intake and disposition figures include a small number of cases handled by mail.[5]

City and District Courts Outside New York City: Criminal-case intake in the sixty-one city courts and two district courts (Nassau and Suffolk) was 257,280 in 1983. There were 202,811 dispositions. Of the dispositions, 57% were by guilty plea, 38% by dismissal, 3% by referral to grand jury, 1% by trial verdict, and 1% by other means. The corresponding 1982 breakdown was nearly identical.

In addition, 456,601 motor-vehicle matters were disposed in these courts in 1983.

Figure 4 shows criminal caseload activity in the limited-jurisdiction courts.

Table 9 shows 1983 criminal-case intake in the top ten city and district courts outside of New York City. Suffolk ranked first, with 103,272 arraignments. Nassau was second, with 48,916. The ten highest-volume city and district courts accounted for 82% of all criminal-case intake in 1983 in the limited-jurisdiction courts outside of New York City.

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[5] In New York City, most motor vehicle summonses and summonses for some violations of environmental laws are returnable to administrative agencies outside of the Unified Court System.

Figure 4
CRIMINAL CASES IN TRIAL COURTS OF LIMITED JURISDICTION
1983

Criminal Court of the City of New York

Arrest Cases	
Intake[a]	240,596
Dispositions	231,899

Summons Cases	
Intake[b]	173,691
Dispositions	167,509

City and District Courts outside New York City

Criminal Cases	
Intake	257,280
Dispositions	202,811

Motor-Vehicle Cases[c]	
Dispositions	456,601

[a] Of the 240,596 docket numbers filed, there were 216,876 arraignments. Bench warrants issued on desk appearance tickets, many of which were subsequently returned to court, account for the difference between the two figures.

[b] This is the sum of 163,273 arraignments plus 10,418 mailed-in pleas, most of which were guilty pleas and included fine payments.

[c] Intake is not shown because statistics are not available for fine payments (by mail or personal appearance) processed in clerks' offices.

Table 9
CRIMINAL-CASE INTAKE IN THE TOP TEN CITY AND DISTRICT COURTS OUTSIDE NEW YORK CITY
1983

Court	*Intake*	
Suffolk District Court	103,272	
Nassau District Court	48,916	
Buffalo City Court	20,542	
Rochester City Court	13,860	
Yonkers City Court	7,056	
Syracuse City Court	4,655	
Mount Vernon City Court	3,405	
Niagara Falls City Court	3,083	
New Rochelle City Court	2,765	
Utica City Court	2,585	
Total	210,139	(82% of Statewide Criminal-Case Intake in City and District Courts outside New York City)

2.3 Civil Cases

Civil cases are processed in the trial courts as follows. The Supreme Court hears cases involving damages claimed above the financial limits of the courts of limited jurisdiction and also hears matrimonial, tax certiorari, condemnation, medical malpractice, and other cases. The limited jurisdiction courts are the Civil Court of the City of New York; District Courts of Nassau and Suffolk; City, Town, and Village Courts outside of New York City; and County Courts. In 1983, these courts heard cases involving damages claimed of $10,000 or less, as well as landlord/tenant, housing code enforcement, and other matters including cases transferred from Supreme Court pursuant to CPLR section 325 (d). (The jurisdictional limit in the District and City Courts outside of New York City is a maximum of $6,000. In 1983, the County Courts heard cases involving damages exceeding $6,000 to a maximum of $10,000.)[6] Thirty-one counties operate a mandatory Arbitration Program that hears cases involving $6,000 or less. The Court of Claims, which is a "specialized," not a "limited" jurisdiction court, hears civil cases involving claims against the State of New York.

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[6] The jurisdictional ceiling for limited-jurisdiction courts was increased to $25,000 as of January 1, 1984.

Civil Terms of Supreme Court

Filings. Statewide, 68,129 civil cases were filed in 1983.[7] This was a 4% decrease from the 70,649 filings of 1982, but 7% higher than the 63,392 of 1981.

Table 10 shows a breakdown of filings by Judicial District and the percentage change from 1982. Table 11 ranks the top ten counties by volume.

The biggest increase was 11% in the 12th JD, where filings rose from 3,797 in 1982 to 4,227 in 1983. Four Districts showed large decreases. The 5th and 6th JDs each showed a 16% decrease, the 1st JD showed a 12% decrease, and the 7th JD showed a decrease cf 10%.

The top ten counties accounted for 81% of all filings. Nassau ranked first with 12,174. The second-ranked county was New York with 8,444 filings. Orange entered the top ten for the first time and Onondaga followed. Traditionally, Onondaga has been part of the "Big Six", for both civil and criminal cases.

Figure 5 shows statewide civil-case filings in Supreme Court by case type. Motor-vehicle torts accounted for 26% (17,463) of all filings. All torts accounted for 48% (32,447).

Dispositions: Statewide, there were 69,446 civil dispositions in 1983.[8] This was a 7% increase from the 64,713 in 1982. There were more dispositions in 1983 than in 1982 in all except two Judicial Districts. In the 11th JD, there were 26% more dispositions in 1983; in the 9th JD, there was a 21% increase; and in the 6th JD, dispositions increased by 20%.

Table 12 shows dispositions by Judicial District. Table 13 ranks the top 10 counties by volume.

During 1983, 12,221 civil trials were commenced in the Civil Terms statewide, a 24% decrease from the 16,067 in 1982. Table 14 shows data by Judicial District. As shown in Table 15, 78% (9,513) of the trials commenced were in ten counties. Suffolk Supreme Court commenced the most civil trials, with 1,919. New York ranked second, with 1,532.

Civil Courts of Limited Jurisdiction

Civil Court of the City of New York: In 1983, there were 235,739 civil-action summonses filed. Of that number, 37,377 were added to the civil-action calendar. There were 31,915 calendared dispositions. In addition, 136,789 default judgments were entered. (The balance were settled out of court or discontinued before being added to the calendar and are not counted in intake or disposition totals for the court.) Another 8,736 cases were removed from civil-action calendars for processing in the Arbitration Program.

A total of 57,125 small-claims cases were filed in 1983. There were 61,777 dispositions.

For landlord/tenant calendars, 408,635 notices of petition were issued in summary proceedings. There were 116,892 summary proceedings added to the calendar and 138,153 disposed.[9] Of the cases not answered, 134,699 default judgments were entered. (The remainder of the cases were settled out of court or discontinued before being calendared, and are not counted in intake or disposition totals.)

Other landlord/tenant actions and proceedings consisted primarily of housing code enforcement matters. There were 7,727 additions to the calendar and 7,973 dispositions.

City and District Courts outside New York City: In 1983, 64,247 civil cases and summary proceedings were added to the calendar. There were 65,270 dispositions in this category. There were 47,102 small-claims cases calendared and 46,687 disposed.

County Courts: Civil actions added to the calendar in 1983 totaled 2,677; 2,592 were disposed in 1983.

Court of Claims: There was intake of 1,544 in 1983. There were 1,429 dispositions.

Arbitration Program: Thirty-one counties now have a mandatory Arbitration Program for cases involving damages of $6,000 of less. Statewide, 16,344 cases were received for arbitration. In 1982, cases received totaled 18,869; in 1981, 21,295.

There were 16,875 dispositions in 1983, with 2,165 demands for trial *de novo*, a *de novo* rate of 13%.

See Figure 6 for civil-case activity in the courts above. Table 16, following this figure, shows details of the Arbitration Program by county.

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[7] A case is defined as commencing with the filing of a note of issue. The filing figure does not include 53,119 uncontested matrimonial filed rative agencies outside of the Unified Court System.

[8] The disposition figure does not include the 57,697 uncontested matrimonials disposed in the Supreme Courts in 1983.

[9] In addition to the 116,892 new cases added to the summary proceedings calendar, 19,238 previously filed cases were restored for disposition. This explains the discrepancy between calendared and disposed.

Table 10
CIVIL CASES FILED IN SUPREME COURT BY JUDICIAL DISTRICT
1983

Judicial District	*Filings*[a]	*Change from 1982*
New York City		
1st	8,444	- 12%
2nd	8,449	- 7%
11th	5,814	- 1%
12th	4,227	+ 11%
Subtotal	(26,934)	(- 5%)
Outside New York City:		
3rd	2,382	+ 3%
4th	1,784	- 8%
5th	2,704	- 16%
6th	1,216	- 16%
7th	2,408	- 10%
8th	4,240	+ 1%
9th	8,156	no change
10th-Nassau	12,174	no change
10th-Suffolk	6,131	- 9%
Subtotal	(41,195)	(- 3%)
Statewide Total	68,129	- 4%

[a] Excludes the 53,119 uncontested matrimonials that were filed in 1983.

Table 11
CIVIL CASES FILED IN SUPREME COURT BY TOP TEN COUNTIES
1983

County	*Filings*[a]	
Nassau	12,174	
New York	8,444	
Kings	7,336	
Suffolk	6,131	
Queens	5,814	
Westchester	4,726	
Bronx	4,227	
Erie	3,191	
Monroe	1,559	
Orange	1,367	
Total	54,969	(81% of Statewide Supreme Court Civil-Case Filings)

[a] Excludes uncontested matrimonials.

Figure 5
CIVIL CASES FILED IN SUPREME COURT BY CASE TYPE
1983

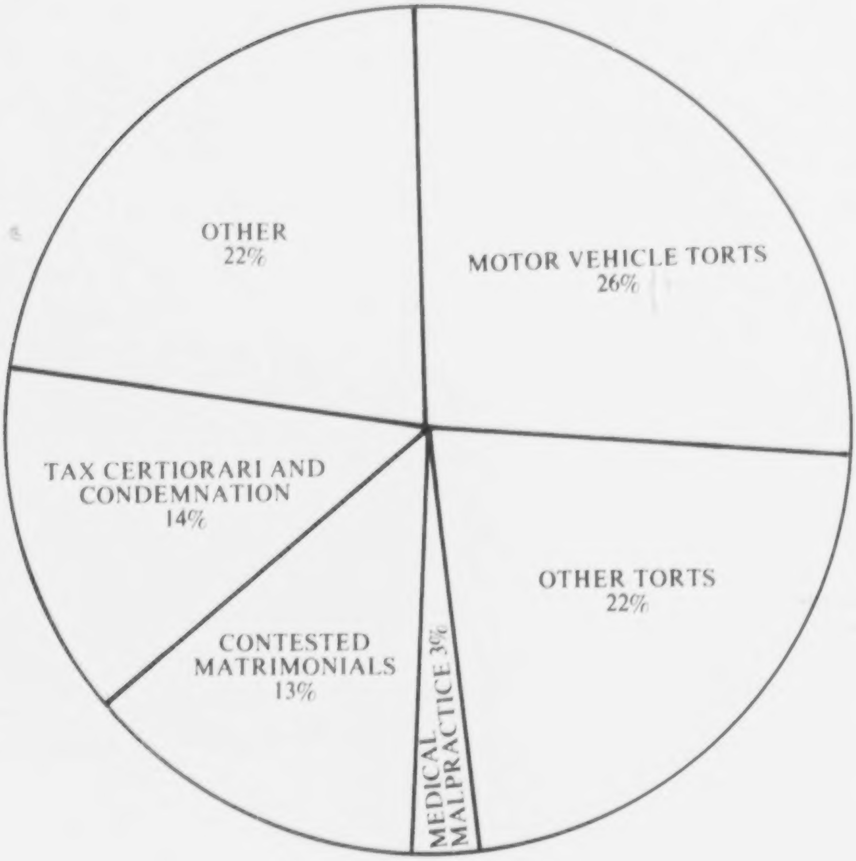

Table 12
CIVIL CASES DISPOSED IN SUPREME COURT BY JUDICIAL DISTRICT
1983

Judicial District	*Dispositions*[a]	*Change from 1982*
New York City		
1st	8,626	+ 4%
2nd	8,088	+ 2%
11th	6,238	+ 26%
12th	3,662	+ 2%
Subtotal	(26,614)	(+ 7%)
Outside New York City:		
3rd	2,321	+ 8%
4th	2,132	+ 4%
5th	3,117	- 9%
6th	1,707	+ 20%
7th	2,480	no change
8th	4,243	+ 14%
9th	8,323	+ 21%
10th-Nassau	12,126	+ 4%
10th-Suffolk	6,383	+ 4%
Subtotal	(42,832)	(+ 7%)
Statewide Total	69,446	+ 7%

[a] Excludes the 57,697 uncontested matrimonials that were disposed in 1983.

Table 13
CIVIL CASES DISPOSED IN SUPREME COURT BY TOP TEN COUNTIES
1983

County	*Dispositions*[a]	
Nassau	12,126	
New York	8,626	
Kings	7,145	
Suffolk	6,383	
Queens	6,238	
Westchester	4,599	
Bronx	3,662	
Erie	3,070	
Monroe	1,551	
Onondaga	1,470	
Total	54,870	(79% of Statewide Supreme Court Civil-Case Dispositions)

[a] Excludes uncontested matrimonials.

Table 14
CIVIL TRIALS COMMENCED IN SUPREME COURT BY JUDICIAL DISTRICT
1983

Judicial District	*Trials Commenced*
New York City:	
1st	1,532
2nd	1,212
11th	1,077
12th	363
Subtotal	(4,184)
Outside New York City:	
3rd	445
4th	498
5th	976
6th	392
7th	1,016
8th	436
9th	886
10th-Nassau	1,469
10th-Suffolk	1,919
Subtotal	(8,037)
Statewide Total	12,221

Table 15
CIVIL TRIALS COMMENCED IN SUPREME COURT BY TOP TEN COUNTIES
1983

County	*Trials Commenced*	
Suffolk	1,919	
New York	1,532	
Nassau	1,469	
Kings	1,149	
Queens	1,077	
Monroe	883	
Onondaga	433	
Westchester	391	
Bronx	363	
Erie	297	
Total	9,513	(78% of Statewide Supreme Court Civil Case Trials Commenced).

Figure 6
CIVIL CASES IN TRIAL COURTS OF LIMITED JURISDICTION
1983

Civil Court of the City of New York

Landlord/Tenant Cases	
Summary Proceedings:	
Intake[a]	116,892
Dispositions	138,153
Other Actions & Proceedings:	
Intake	7,727
Dispositions	7,973

Civil Cases	
Intake[b]	37,377
Dispositions[c]	31,915

Small Claims Cases	
Intake	57,125
Dispositions	61,777

City and District Courts outside New York City

Civil Cases and Summary Proceedings	
Intake	64,247
Dispositions[d]	65,270

Small Claims Cases	
Intake	47,102
Dispositions	46,687

County Courts	
Intake	2,677
Dispositions	2,592

Court of Claims	
Intake	1,544
Dispositions	1,429

Arbitration Program	
Intake	16,344
Dispositions	16,875

NOTE: Intake data in figure 6 include only cases added to court calendars. Intake data do not include cases restored to the calendar after previous disposition.

[a] An additional 291,743 petitions were filed in which no answer was received. Default judgments were entered for 134,699 of these.

[b] An additional 198,362 summonses were filed in which no answer was received. Default judgments were entered for 136,789 of these.

[c] Does not include 8,736 referrals to Arbitration Program.

[d] Includes 3,867 referrals to Arbitration Program after conferencing. Does not include the 1,316 referrals to Arbitration before calendaring.

Table 16
INTAKE, DISPOSITIONS, AND TRIALS DE NOVO IN ARBITRATION PROGRAM
1983

County	*Intake*	*Dispositions*	*Demand for Trial de Novo*	*De Novo Rate*
1st Judicial District:				
New York	3,997	4,047	736	18%
2nd Judicial District:				
Kings	1,860	1,726	319	18%
3rd Judicial District:				
Albany	94	154	5	3%
Rensselaer	39	56	1	2%
Ulster	85	90	4	4%
4th Judicial District:				
Schenectady	91	100	10	10%
5th Judicial District:				
Oneida	111	128	8	6%
Onondaga	365	410	27	7%
6th Judicial District:				
Broome	96	108	6	6%
Chemung	4	4	0	- 0 -
Schuyler	8	6	0	- 0 -
Tompkins	66	57	7	12%
7th Judicial District:				
Cayuga	12	12	0	- 0 -
Livingston	21	23	3	13%
Monroe	629	646	92	14%
Ontario	30	34	4	12%
Seneca	5	6	2	33%
Steuben	22	28	2	7%
Wayne	19	19	1	5%
Yates	10	11	0	- 0 -
8th Judicial District:				
Erie	422	289	19	7%
Niagara	110	122	7	6%
9th Judicial District:				
Dutchess	118	140	6	4%
Orange	158	173	0	- 0 -
Putnam	31	35	4	11%
Rockland	154	186	0	- 0 -
Westchester	614	673	40	6%
10th Judicial District:				
Nassau	2,543	2,608	138	5%
Suffolk	1,751	1,998	139	7%
11th Judicial District:				
Queens	2,031	2,135	444	21%
12th Judicial District:				
Bronx	848	851	141	17%
Statewide Total	16,344	16,875	2,165	13%

Small Claims Assessment Review Program

In November 1981, a program was initiated pursuant to Art. 7, title 1-A, RPTL that provided New York State owners of one, two, or three family owner-occupied residences a procedure to appeal their real property assessments.

When an individual is not satisfied with the outcome of an appeal to the local Board of Assessment Review, he or she may file a petition with the County Clerk, who sends the case to the Supreme Court. Cases are assigned to specially trained hearing officers rather than judges. The hearing officers conduct hearings and render decisions. Decisions are filed with the Supreme Court and with the localities affected by the decisions.

In 1983, there were 1,879 petitions filed and 1,712 dispositions. Table 17 shows data for each Judicial District. (These filings and dispositions are not included with data shown previously for civil cases in Supreme Court.)

Table 17
SMALL CLAIMS ASSESSMENT REVIEW FILINGS AND DISPOSITIONS
BY JUDICIAL DISTRICT
1983

Judicial District	*Filings*	*Dispositions*
New York City		
1st	2	2
2nd	28	28
11th	12	0
12th	3	3
Subtotal	(45)	(33)
Outside New York City:		
3rd	281	154
4th	169	169
5th	234	208
6th	132	117
7th	109	104
8th	523	510
9th	190	205
10th	196	212
Subtotal	(1,834)	(1,679)
Statewide Total	1,879	1,712

2.4 Family Courts

The Family Courts reported intake of 366,644 petitions in 1983. Of these petitions, 113,330 were reported in New York City. The remaining 253,314 were reported in the rest of the state.

There were 376,392 petitions removed from the active inventory in 1983. The total in New York City was 125,877; outside New York City, the total was 250,515.

New York State law requires the Chief Administrator of the Courts to report to the State Legislature highly detailed statistics regarding the nature and outcome of petitions for juvenile delinquency, persons in need of supervision, child protective proceedings, and family offense proceedings. This data is available in an appendix to this report.

2.5 Surrogates' Courts

In 1983, there were 121,648 petitions filed, which includes affidavits filed in small estate matters. Surrogate's Court output, including orders signed, decrees signed, and letters issued, are shown in Table 18.

2.6 Appellate Courts

Tables 19, 20, 21, and 22 show 1983 activity in the Appellate Courts (excluding County Courts acting as appellate courts, for which caseload activity data are not currently available.)

2.7 Community Dispute Resolution Centers Program

Chapter 847 of the Laws of 1981 created the Community Dispute Resolution Centers Program. This statewide network of community-based dispute resolution centers has relieved the courts of many matters that do not require a formal court structure, providing an alternative mechanism for the resolution of minor disputes, both criminal and civil.

Case intake in each center includes walk-in clients and referrals from courts and other agencies. Dispositions include cases conciliated without mediation, mediated, and arbitrated. Certain cases are determined to be inappropriate for mediation and are referred to other agencies.

In fiscal year 1982-83, there were 54,254 cases received and 15,280 dispositions. Nearly three-quarters of the cases received were referred elsewhere. Table 23 shows cases received were referred elsewhere. Table 23 shows the breakdown of intake and dispositions for each center. There was an increase of 69% in case intake from fiscal year 1981-82 to fiscal year 1982-83, and a 59% increase in total dispositions for the same period. This very large increase is due in part to the low caseload during the first year of operation.[10]

2.8 Standards and Goals

Since 1975, Standards and Goals of the Chief Administrator of the Court have provided performance measures for the courts for elapsed time to disposition for felony cases in the Supreme and County Courts, civil cases in the Supreme Courts, and for proceedings in the Family Courts.[11]

Felony Cases: The applicable standard is disposition within six months from filing of indictment, excluding periods when a case is not within the active management control of the court (warrant outstanding, etc.)

During 1983, 72% of felony case dispositions statewide were achieved within the six-month standard. At the end of 1983, 38% of the 17,259 felony cases pending statewide were older than six months since indictment.

Civil Cases: The standard is disposition within fifteen months of the filing of a Note of Issue. During 1983, 76% of civil case dispositions statewide were achieved within this standard. At the end of 1983, 27% of the 59,738 civil cases pending in the Supreme Court statewide were older than fifteen months since the filing of the Note of Issue.

Family Court: The standard is case disposition within 180 days of the commencement of a proceeding excluding periods when a case is not within the active management control of the court (for example, warrant outstanding). During 1983, 96% of all dispositions were reached within the standard.[12]

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[10] The program publishes a detailed annual report. This material is intended as a highly abbreviated summary of the program's caseload activity.

[11] See "Standards and Goals", memorandum of the Chief Administrator of the Courts of 2/28/79, containing revisions approved by the Administrative Board of the Courts on 1/25/79 to the original 1975 Standards and Goals.

[12] Part-year data. All Family Courts had not reported full-year standards and goals data by March 1984.

Table 18
SURROGATES' COURTS CASELOAD ACTIVITY STATEWIDE
1983

Number of Proceedings By Case Type	Petitions Filed	Citations (Return-able)	Motions Order to Show Cause Filed	Guard. Ad Litem Appt'd	Answers Objec-tions Filed	Bonds Filed	Bonds Dis-pensed With	Trial Notes of Issue Filed	Orders Signed	Decrees Signed	Letters Issued	Misc.
Probate	39,309	10,760	731	3,202	535	824	6,417	100	16,402	37,191	39,788	9,267
Administration	14,378	1,620	96	200	117	3,349	6,411	8	2,207	11,297	12,238	2,867
Accounting	5,822											
Informal Accountings	(7,972)	5,295	379	2,036	650	134	513	77	5,248	5,821		22,394
Miscellaneous	8,554	1,714	619	599	354	594	778	41	8,264	2,293		1,073
Guardianship	13,447	959	61	376	22	100	1,720	6	7,933	6,573	6,629	494
Adoption	3,295	965	73	272	62			53	4,688		2,151	795
Estate Tax	17,478		349		5			9	17,143			2,231
Total	110,255	21,313	2,308	6,685	1,745	5,001	15,839	294	61,885	63,175	60,806	39,121

Surrogate and Law Department:	
Number of Hearings Commenced by Surrogate	7,594
Number of Trials Commenced by Surrogate	1,391
Number of Conferences and Hearings	41,772
Number of Conferences on Legal Matters Commenced by Chief Clerk and Deputy Chief Clerk	24,606
Number of Examinations Held	3,429
Number of Written Decisions	13,288
Number of Opinions and Memoranda Issued	10,498
Small Estates:	
Number of Affidavits Filed	11,393
Number of Answers/Objections Filed	58
Number of Accountings Filed	2,828
Other:	
Number of Certificates Issued	480,081
Number of Annual Guardianship Accountings	47,760
Number of Wills Filed for Safekeeping	14,248
Number of Files Requisitioned	488,834
Number of Pages Certified	145,625
Number of Exemplifications	2,278
Number of Searches Completed	6,348
Number of Witnesses Examined by Clerk	6,381

Table 19
CASELOAD ACTIVITY IN THE COURT OF APPEALS
1983

Applications Decided (C.P.L.§460.20(3-b))	1,813
Records on Appeal Filed	784
Motions Decided	1,346
Oral Arguments	709
Appeals Decided	684

Table 20
DISPOSITIONS OF APPEALS DECIDED IN THE COURT OF APPEALS BY BASIS OF JURISDICTION
1983

Basis of Jurisdiction	*Affirmance*	*Reversal*	*Modification*	*Dismissal*	*Total*
All Cases:					
Reversal, Modification, Dissent in Appellate Division	301	57	28	13	399
Permission of Court of Appeals or Judge thereof	82	71	7	2	162
Permission of Appellate Division or Justice thereof	52	16	10	3	81
Constitutional Questions	8	3	1	2	14
Other	14	11	2	1	28
Total	457	158	48	21	684
Civil Cases:					
Reversal, Modification, Dissent in Appellate Division	301	57	28	13	399
Permission of Court of Appeals or Judge thereof	22	41	3	0	66
Permission of Appellate Division or Justice thereof	28	11	8	1	48
Constitutional Questions	8	3	1	2	14
Other	14	11	2	1	28
Total	373	123	42	17	555
Criminal Cases:					
Reversal, Modification, Dissent in Appellate Division	0	0	0	0	0
Permission of Court of Appeals or Judge thereof	60	30	4	2	96
Permission of Appellate Division or Justice thereof	24	5	2	2	33
Constitutional Questions	0	0	0	0	0
Other	0	0	0	0	0
Total	84	35	6	4	129

Table 21
CASELOAD ACTIVITY IN THE APPELLATE DIVISIONS
1983

Activity	*First Department*	*Second Department*	*Third Department*	*Fourth Department*	*Total*
Records on Appeal Filed	3,744	4,020	1,696	1,146	10,606
Motions Decided	8,601	10,937	3,795	2,719	26,052
Oral Arguments	1,392	1,742	1,215	1,097	5,446
Appeals Decided:[a]					
Affirmed	2,002	2,303	1,485	878	6,668
Reversed, New Trial	396	696	227	234	1,553
Modified	263	334	158	147	902
Dismissed[b]	177	213	30	36	456
Other	337	10	18	42	407
Total	3,175	3,556	1,918	1,337	9,986
Admission to Bar:					
Men	1,138	1,563	759	259	3,719
Women	697	707	216	137	1,757
Attorney Disciplinary Proceedings:					
Charges Dismissed	1	2	3	0	6
Censures	3	1	3	3	10
Suspensions	35	13	8	8	64
Struck from Roll (Incl. Disbarments)	32	12	4	3	51
Reinstatements	8	10	11	1	30
Total	79	38	29	15	161

[a] Includes Art. 78 C.P.L.R. and Original Proceedings.

[b] Includes appeals dismissed or withdrawn before arguments or submission.

Table 22
CASELOAD ACTIVITY IN THE APPELLATE TERMS
1983

Activity	*First Department*	*Second Department*	*Total*
Source of Appeals Received:			
County Courts	0	28	28
Civil Court of the City of New York	610	428	1,038
Criminal Court of the City of New York	144	278	422
District Courts	0	613	613
Courts in Cities outside New York City	0	176	176
Town and Village Courts	0	336	336
Total	754	1,859	2,613
Motions Heard or Submitted	1,754	3,106	4,860
Disposition of Appeals			
Discontinued	28	6	34
Dismissed on Calendar Call under Rule 3 or 8 (Civil)	42	386	428
Dismissed on Calendar Call under C.P.L.§*460.70* (Criminal)	57	64	121
Remitted	0	0	0
Decided after Argument or Submission	439	677	1,116
Total	566	1,133	1,699
Decisions Rendered after Argument:			
Affirmed	234	353	587
Reversed	151	228	379
Modification	37	62	99
Dismissed, Discontinued, Withdrawn, or Remanded	17	34	51
Total	439	677	1,116
Opinions Filed	21	0	21
Per Curiam Opinions	275	643	918
Memoranda Written, Not Filed	164	0	164

Table 23
COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM INTAKE AND DISPOSITIONS FISCAL YEAR 1982 - 83

		Dispositions			
Program	*Intake*	*Concili-ations*	*Medi-ations*	*Arbi-trations*	*Total*
Albany Mediation Program	808	11	164	1	176
Broome: ACCORD	442	63	36	0	99
Chemung: Neighborhood Justice Project	3,268	305	82	0	387
Dutchess: Comm. Dispute Res. Center	61	3	4	0	7
Erie: Dispute Settlement Center	3,156	131	349	8	488
Monroe: Center for Dispute Settlement, Inc.	2,042	78	606	103	787
Nassau: Community Dispute Center	1,316	12	94	24	130
Nassau: Mediation Alternative Project	178	22	49	0	71
N Y & Bronx: IMCR Dispute Res. Center	15,938	696	4,749	323	5,768
Kings & Queens: Victim Services Agency	15,248	67	5,036	0	5,103
Richmond: Staten Island Community Dispute Center	4,102	78	582	0	660
N Y: Washington Heights - Inwood Coalition	1,720	90	84	0	174
Kings: Dispute Res. Center Brooklyn College	415	33	106	0	139
Onondaga: Resolve - A Center For Dispute Settlement, Inc.	829	148	133	0	281
Onondaga: Dispute Res. Ctr. of the Volunteer Center, Inc.	1,115	14	196	2	212
Orange: Orange Co. Mediation Project	439	26	60	0	86
Rensselaer: Comm. Dispute Stlmt. Program	314	30	36	0	66
Rockland: Volunteer Mediation Center	188	0	21	0	21
Schenectady: Comm. Dispute Stlmt. Program	351	15	29	0	44
Suffolk: Comm. Mediation Center, Inc.	2,324	84	497	0	581
Total	54,254	1,906	12,913	461	15,280

Chapter 3

Education and Training Programs

Since 1962, over 26,700 judges and justices of New York State have attended seminars and training programs conducted by the Office of Court Administration through its Education and Training Office. In 1983, 503 town and village justices attended OCA-sponsored judicial programs. In the area of nonjudicial training, more than 1261 persons attended programs sponsored or financed by OCA.

3.1 Judicial Programs for State-Paid Judges

Orientation Seminar for New Judges

December 5-9, 1983
New York City

The annual Orientation Program for Newly-Elected and Newly-Appointed Judges was held on December 5 to 9 1983 in New York City. This week-long program consisted of lectures on evidence, the trial judge's role, the New York State Employees Retirement System, criminal procedure, the Bench Book for Trial Judges, civil law and procedure, the administration of jurors, the role of the court reporter, inter-court relations and administrative structure, substantive criminal law, pattern jury instructions, judicial conduct, the conduct of a civil trial, and courts and the community and public perceptions. Fifty-eight judges attended.

Local Judicial Programs

Because of budgetary constraints, the Statewide summer judicial seminars were suspended in 1983. In lieu of that program, at least one day of local continuing judicial education was arranged by and conducted for the judges of each judicial district. These programs generally emphasized recent developments in evidence and civil and criminal procedural and substantive law. Judges across the state did an outstanding job of creating these local programs and both judges and law professors volunteered their time to serve as faculty.

3.2 Town and Village Justice Training Programs

There are approximately 2400 town and village justice positions in New York State. Because of vacancies and because some judges hold more than one position approximately 2,100 individuals hold the office of town or village justice. Roughly eighty percent of these are not admitted to practice law in the State. New justices who are not attorneys are required to successfully complete a six-day Basic Certification Course covering the fundamentals of law and their responsibilities as judges. The Basic Course was presented once in Canton and twice each in Albany, Syracuse, and Buffalo in 1983. A total of 202 judges attended. After completion of the Basic Course, and upon each succeeding new term of office, a non-attorney justice must complete a two-day Advanced Certification Course which covers selected legal topics in greater depth. The seven Advanced Courses presented in 1983 were held in New York City, Canton, Fredonia, Glens Falls, Canandaigua, Ellenville and Cortland. A total of 301 judges attended.

The Office of Court Administration is particularly grateful to the Honorable Eugene W. Salisbury, the Honorable Duncan S. MacAffer, and the Honorable John J. Elliot, who again served as the senior faculty for the certification programs, coordinated the Basic Certification Courses, and provided invaluable consultation for the program planning and delivery.

In addition, the Office of Court Administration thanks the following people for their participation in the Justice Training Program:

Michael J. Brown, Esq.
Honorable Helen Burham
Paul J. Cambria, Jr. Esq.
Malcolm Coutant, Esq.
Mr.David Egelston
Professor Maurice Frey
Peter Gerstenzang, Esq.
Mr. Willian Green
Honorable Herman Harding
Honorable John U. Holmes
Mr. Lamont Martine
David F. Mix, Esq.
Honorable Kevin Moss
Mr. David S. Rockefeller
Larry J. Rosen, Esq.
Edward Rowley, Esq.
Mr. Joseph Sarno
Neal Schoen, Esq.
James T. Scime, Esq.
Mr. Ted P. Swiderek
Louise Tucker, Esq.
Honorable Richard Wittenburg

3.3 Nonjudicial Programs

Employee Benefit Programs

Several new offerings were added to the catalog of these programs during 1983. The "World of Women," an intensive program using three facilitators, was piloted in the Seventh Judicial District and will be added to the 1984 catalog. "Professional Ethics" made its debut in 1983 and several new presentations such as "One Minute Management in the Courts" were conducted. Team building for Chief Clerks and their key subordinates was also piloted in the Seventh District during 1983 and will be a regular offering during 1984. In 1983, 1,261 employees attended Employee Benefit programs, as compared to 860 in 1982. The programs were:

Advanced Management Concepts
  Jan. 14 Riverhead
  Sept. 9 Canandaigua

Conducting Employee Orientations
  Apr. 7 Rochester

Court System Structure
  June 1 Rochester

Dealing With the Public
  Feb. 15 Albany
  Feb. 22 New York
  Apr. 6 Rochester
  May 21 Glens Falls
  June 11 Canandaigua
  July 27 Canton
  Sept. 12 Ellenville
  Oct. 29 Cortland

Excellence in Court Management
  Oct. 13 Cortland

Fact-to-Face Communications
  Jan. 20 Riverhead
  Jan. 21 Hauppauge
  June 3 Rochester
  Dec. 2 Rochester

Management Trends
  Oct. 28 Cortland

One Minute Management
  Sept. 19 Syracuse

Personal Stress Management
  Jan. 27 Riverhead
  Jan. 28 Hauppauge
  Apr. 5 Rochester

Principles of Supervision
  Sept. 7 Rochester
  Dec. 2 Rochester

Professional Ethics
  Apr. 5 Rochester
  June 1 Rochester
  June 3 Rochester
  Sept. 8 Rochester
  Sept. 9 Canandaigua
  Dec. 1 Rochester

How to Take a Written Examination
  Apr. 21 Hauppauge
  Apr. 22 Riverhead

Team Building (Chief Clerk and Subordinate)
  Dec. 1 Rochester

Telephone Techniques
  Sept. 8 Rochester

Time and Crisis Management
  Feb. 3 Riverhead
  Feb. 4 Hauppauge
  Apr. 7 Rochester
  Sept. 7 Rochester
  Oct. 7 Rochester

Whole Brained Communications Theory
  Nov. 29 Albany

World of Women: Change, Challenge
  June 2 Rochester

These workshops were designed to make court managers and their subordinates better communicators and more effective workers. They were designed by Office and Court Administration personnel, often working with court personnel and sometimes with personnel of other agencies in developing and delivering them.

The workshops employ adult learning theory in having the participants perform exercises such as role playing, introspective written work, small and large group discussions, and analysis of case studies.

Employee Benefit Programs are designed to benefit the courts by enhancing the knowledge, attitudes, personal skills and work habits of the individuals comprising the support staff of the Unified Court System.

3.4 Other Programs

3.4 Judicial Programs

National Programs

The Education and Training Office sponsors and coordinates selective attendance of judicial and non-judicial personnel at nationally recognized education programs.

One judge attended the Conference of the Council of Chief Judges of Courts of Appeal, and one attended the American Bar Association's Appellate Judges' Conference.

New York was represented by four judges at the American Bar Associations' Conference of Special Court Judges.

Institute for Trial Judges

The Education and Training Office provided administrative services and funding for two series of lectures established by the Institute for Trial Judges at Hunter College. The lectures are intended to provide an interdisciplinary forum stressing issues of the social sciences as they impact upon trial judges.

3.4.2 Nonjudicial Programs

Members of the Education and Training Office shared experiences and ideas with their counterparts in other organizations during 1983. They participated in several intergovernmental programs, including programs of the National Association of State Judicial Educators and the New York State Training Council.

Chapter 4

Legislation and Rule Revision

Legislation

The Office of Counsel is the principal representative of the Unified Court System in the legislative process. In this role, it is responsible for developing the Judiciary's legislative program and for providing the legislative and executive branches with analyses and recommendations concerning legislative measures which may have an impact on the courts and their administrative operations. It also serves a liaison function with bar association committees, judicial associations and other groups, public and private, with respect to changes in court-related statutory law.

Deputy Counsel staff the Chief Administrator's advisory committees on civil practice, criminal procedure and family law. These committees formulate legislative proposals in their respective areas of concern and expertise for submission to the Chief Administrator. When approved by the Chief Administrator, they are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

Each advisory committee also analyzes other legislative proposals during the legislative session. Recommendations are submitted to the Chief Administrator, who, through his Counsel, communicates with the Legislature and the Executive on such matters in the form of legislative memoranda and letters to Governor's Counsel.

Counsel's Office also is responsible for drafting legislative measures required by the administrative office for the courts, including budget requests, adjustments in judicial compensation and measures to implement collective bargaining agreements negotiated with court employee unions pursuant to the Taylor Law. In addition, Counsel's Office analyzes other legislative measures that have potential impact on the administrative operation of the courts and makes recommendations to the Legislature and the Executive on such matters.

In the discharge of its legislation-related duties, Counsel's Office consults frequently with legislators, the professional staff of legislative committees and the Governor's Counsel for the purposes of generating support for the Judiciary's legislative program and providing technical assistance in the development of court-related proposals initiated by the executive and legislative branches.

During the 1983 legislative session, Counsel's Office, in conjunction with the advisory committees, prepared and submitted fifty-seven measures for legislative consideration. These measures were introduced during the session and, ultimately, ten were enacted into law. All but one of the remaining measures will be carried over for consideration during the 1984 legislative session. Also during the 1983 session, Counsel's Office furnished Counsel to the Governor with analyses and recommendations on 173 court-related measures awaiting executive action, while the Legislature was supplied with written legislative memoranda on 133 measures.

The following is a summary of the measures submitted for introduction in the Legislature in 1983 at the request of the Office of Court Administration:

Measures Enacted Into Law in 1983

Chapter 28 (Assembly bill 91). Amends §190.65(1) of the Criminal Procedure Law to provide that a grand jury may not indict when corroboration that would be required, as a matter of law, to convict has not been adduced before it. Eff. 5/3/83.

Chapter 119 (Senate bill 1419). Amends the Family Court Act to add a new section 154-a to provide that, in every proceeding in Family Court, a copy of the petition shall be served upon the respondent at the time of service of process or, if that is not practicable, at the first court appearance. Eff. 5/23/83.

Chapter 170 (Assembly bill 92). Amends §290.10(1) of the Criminal Procedure Law to authorize a court to reserve decision on a motion to dismiss until the verdict has been rendered and accepted by the court. Eff. 5/31/83.

Chapter 236 (Senate bill 1558). Amends §39(2)(a) of the Judiciary Law to eliminate column B thereof, relating to security services. Eff. 6/6/83.

Chapter 317 (Senate Bill 4345). Amends §§240.20, 240.30 and 240.40 of the Criminal Procedure Law to authorize discovery in cases arising out of simplified informations. Eff. 7/21/83.

Chapter 318 (Senate bill 4346-A). Amends the CPLR to add a new §2005 to provide that courts are not precluded from exercising discretion to excuse delay or default resulting from law office failure and adds a new subdivision (d) to Rule 3012 to authorize a court, upon application of a party, to extend the time to appear or plead upon a showing of reasonable excuse for default or delay. Eff. 6/21/83, and made applicable to every action or proceeding heretofore commenced which is either still pending before a court or for which the time for taking an appeal from any order or judgment therein has not yet expired.

Chapter 352 (Senate bill 1963). Amends §182(10) of the Judiciary Law to abolish the office of Surrogate in Columbia County, to create an additional office of County Judge therein and to provide that each county-level judge in Columbia County shall discharge the duties of County Judge, Family Court Judge and Surrogate. Eff. 6/23/83.

Chapter 357 (Senate bill 1675). Amends §730(3) of the Real Property Tax Law to provide that only County Clerks outside the city of New York may retain five dollars of a small claims assessment review proceeding filing fee, with the balance of such fee to be paid to the Commissioner of Taxation and Finance as provided in §39(2)(e) of the Judiciary Law. Eff. 6/26/83 and deemed in effect from 7/13/82.

Chapter 840 (Senate bill 6557). Amends the Judiciary Law, CPLR, Criminal Procedure Law and Retirement and Social Security Law to authorize the designation of judicial hearing officers. Such positions will be filled by retired judges and justices who will be assigned to preside over certain civil and criminal matters. Eff. 9/1/83.

Constitutional Amendment (Senate bill 1623, Assembly bill 1392). Amends §26(f) of Article VI of the Constitution to authorize the temporary assignment of a judge of the Family Court to the Supreme Court in the judicial department of his or her residence. Approved by vote of the People, 11/83; Eff. 1/1/84.

Measures Carried Over to 1984

Senate 1425/Assembly 7848. This measure would amend the Judiciary Law to eliminate the unnecessary distribution of official law reports.

Senate 1420. This measure would amend the Judiciary Law to authorize alteration of collective bargaining units of nonjudicial personnel by PERB.

Senate 1559/Assembly 3998. This measure would amend the Judiciary Law to permit contractual representation in State-paid assigned counsel matters.

Senate 2134/Assembly 4000. This measure would amend the Constitution to create an appellate court for review of felony sentences.

Senate 6876/Assembly 4292-A. This measure would amend the Judiciary Law to increase the travel allowance for judges in travel status.

Senate 6405. This measure would amend the Judiciary Law and the CPLR to implement recommendations of the Chief Administrator's Ad Hoc Committee on Medical Malpractice Panels.

Senate 1/Assembly 5901. This measure would amend the Judiciary Law and other consolidated laws to harmonize them with revised section 28 of Article VI of the Constitution.

Senate 6553/Assembly 5870. This measure would amend the CPLR and other consolidated laws to harmonize them with revised section 28 of Article VI of the Constitution.

Senate 2/Assembly 5891. This measure would amend the Family Court Act and other consolidated laws to harmonize them with revised section 28 of Article VI of the Constitution.

Senate 3/Assembly 5867. This measure would amend the Surrogate's Court Procedure Act and other consolidated laws to harmonize them with revised section 28 of Article VI of the Constitution.

Senate 4/Assembly 5966. This measure would amend the New York City Civil Court Act and other court acts to harmonize them with revised section 28 of Article VI of the Constitution.

Senate 4171/Assembly 5772. This measure would amend the Uniform Court Acts in relation to the appearance of a corporation in defense of a small claims action.

Senate 4444/Assembly 6139. This measure would amend the Judiciary Law to clarify the extent of court administrators' authority to curb unnecessary and excessive adjournments in court proceedings.

Senate 5711. This measure would amend the Family Court Act and Education Law to transfer jurisdiction over the special education needs of handicapped children from the Family Court to local school districts.

Senate 2152/Assembly 4293. This measure would amend the Criminal Procedure Law to establish a procedure for obtaining a warrant of arrest prior to commencement of a criminal action.

Senate 2153/Assembly 4291. This measure would amend the Criminal Procedure Law to authorize the Chief Administrator to promulgate forms for practice in criminal courts.

Senate 2135/Assembly 3063. This measure would amend the Criminal Procedure Law to clarify that grand jury witnesses do not receive immunity for giving nontestimonial identification evidence which they would have no constitutional privilege to withhold.

Senate 2342/Assembly 3553. This measure would amend the Criminal Procedure Law to transfer responsibility for the conduct of the *voir dire* in criminal proceedings to the trial judge.

Senate 2136/Assembly 3065. This measure would amend the Criminal Procedure Law to reduce the number of peremptory challenges available.

Senate 2138/Assembly 5704. This measure would amend the Criminal Procedure Law to permit retrial of an indictment in certain cases.

Senate 4170/Assembly 4508. This measure would amend the Criminal Procedure Law to permit, under certain circumstances, both conditional examinations of witnesses and the use of prior testimony given at any pretrial hearing.

Senate 2139/Assembly 3064. This measure would amend the Criminal Procedure Law to allow a court summarily to dismiss a motion to suppress statements under certain circumstances.

Senate 4412/Assembly 5714. This measure would amend the Penal Law to establish an affirmative defense of temporary possession of a weapon.

Senate 2154/Assembly 4294. This measure would amend the Criminal Procedure Law to establish a procedure for examining the source of cash bail in the amount of $10,000 or more.

Senate 2141/Assembly 5705. This measure would amend the Criminal Procedure Law to authorize a court to conduct a hearing upon a motion to suppress evidence simultaneously with the trial.

Senate 16/Assembly 6138. This measure would amend the Criminal Procedure Law to provide that defense counsel and the district attorney may be present at a fitness to proceed hearing.

Senate 17/Assembly 5964. This measure would amend the Criminal Procedure Law to clarify that a defendant may not have the question whether his confession was obtained in violation of his rights under *Miranda* submitted to the jury.

Senate 18/Assembly 5950. This measure would amend the Criminal Procedure Law to permit a court to require the defendant to provide nontestimonial evidence in a case where a felony or misdemeanor complaint is pending.

Senate 4975/Assembly 7676. This measure would amend the Criminal Procedure Law to provide that a negotiated plea will constitute a waiver of defendant's right to appeal from an order denying his suppression motion, unless both defendant and prosecutor stipulate that such right is preserved.

Senate 5015. This measure would amend the Criminal Procedure Law to provide that a defendant who negotiates a plea thereby waives his right to appeal from the sentence imposed therefor on the ground that it is harsh or excessive.

Senate 5601/Assembly 780-A. This measure would add a new Article 695 to the Criminal Procedure Law in relation to video surveillance warrants.

Assembly 5965. This measure would amend the Criminal Procedure Law to authorize the temporary separation of a deliberating jury.

Senate 5032/Assembly 6798. This measure would amend the Criminal Procedure Law in relation to certificates granting leave to appeal to the Court of Appeals.

Senate 5352/Assembly 7677. This measure would amend the Criminal Procedure Law in relation to appeals to the Court of Appeals.

Senate 4335/Assembly 5951. This measure would amend the CPLR to clarify that an additional notice of default judgment is required in a consumer credit action.

Senate 5117/Assembly 6597. This measure would amend the CPLR to liberalize, codify and make uniform certain disclosure procedures.

Senate 5116/Assembly 6158. This measure would amend the CPLR to strike references to the provisional remedy of civil arrest.

Senate 6544/Assembly 5773. This measure would amend the CPLR to increase the amount of costs awardable in an action.

Senate 4178/Assembly 6323. This measure would amend the CPLR to increase the attendance fee and travel expenses of persons subpoenaed to testify in civil actions.

Senate 3460/Assembly 5902. This measure would amend the CPLR in relation to the hearing and determination of Article 78 proceedings.

Senate 4172/Assembly 5869. This measure would amend the CPLR to provide that a court must determine whether notice is practicable prior to granting an application for a temporary restraining order upon a motion for a preliminary injunction.

Senate 5115/Assembly 6248. This measure would amend the CPLR to abolish the remedy of civil arrest in connection with the enforcement of money judgments.

Senate 4211/Assembly 5903. This measure would amend the CPLR in relation to the trial of issues of fact in respect to arbitration.

Senate 4233. This measure would amend the CPLR to improve the procedures governing the use of bills of particulars.

Senate 5014. This measure would amend the CPLR to authorize a court to permit, in conjunction with an arbitration, certain provisional remedies.

In addition to the foregoing, the Chief Administrator sent to the Legislature a proposal to amend the Court of Claims Act to extend the time period during which the Governor is authorized to fill nineteen new judgeships of the Court of Claims (created by L. 1982, c. 500). This measure was never introduced.

Rule Revision

Numerous constitutional and statutory provisions require the Chief Judge and Chief Administrator to promulgate rules affecting the operation of the courts.

During 1983, several new rules were promulgated, several were repealed and others were significantly amended.

In addition, a special Rules Committee was formed in Counsel's Office to review and to rewrite the rules now governing practice in the trial courts and to draft statewide uniform rules. By year's end, a draft of these uniform rules had been prepared and circulated to all administrative judges. Early in 1984, they will be circulated among the Bench and Bar for their review and comment.

The following list summarizes the 1983 activity.

Rules Adopted in 1983

Part 34 of the Rules of the Chief Judge (22 NYCRR Part 34) sets forth detailed guidelines for court facilities and thereby implements recommendations of the New York State Court Facilities Task Force. Eff. 7/5/85.

Part 117 of the Rules of the Chief Administrator (22 NYCRR Part 117) relates to calendar control of financial disclosure in Supreme Court actions involving alimony, maintenance, support and equitable distribution, including those referred to Family Court pursuant to section 464 of the Family Court Act. Eff. 6/1/83.

Part 122 of the Rules of the Chief Administrator (22 NYCRR Part 122) implements chapter 840 of the Laws of 1983 by establishing guidelines for the judicial hearing officer program. Eff. 12/27/83.

Rules Repealed in 1983

In Part 100 of the Rules of the Chief Administrator Governing Judicial Conduct, section 100.5 (c) (5) (22 NYCRR 100.5 (c) (5)) was repealed. Repeal of this provision, prohibiting the solicitation or acceptance of gifts by judges for performing weddings, was necessitated by the enactment of chapter 433 of the Laws of 1983. This chapter amended section 805-b of the General Municipal Law to permit a judge to accept a gift having a value of $50 or less for the solemnization of a marriage. Eff. 12/2/83.

Part 3496 of the Rules of the City Court of Rochester (22 NYCRR Part 3496), relating to compulsory arbitration, was repealed. In substance, it had been superseded by Part 28 of the Rules of the Chief Judge (22 NYCRR Part 28) relating to the Alternative Method of Dispute Resolution by Arbitration. Eff. 6/24/83.

Sections 660.23 and 699.12 (22 NYCRR 660.23, 699.12), relating to matrimonial actions and proceedings in the trial courts with the First and Second Judicial Departments, were repealed as superseded by Part 117 of the Rules of the Chief Administrator (22 NYCRR Part 117), *supra*. Eff. 6/1/83.

Rules Amended in 1983

Section 17.2 of Part 17 of the Rules of the Chief Judge (22 NYCRR Part 17), relating to the education and training of judges, was amended to expand the training required for town and village justices and to include lawyer-judges within the ambit of such required training. Eff. 1/1/84, promulgated 12/15/83.

Part 107 of the Rules of the Chief Administrator, relating to salary schedules of nonjudicial personnel, was amended to add sections 107.5 and 107.6 (22 NYCRR 107.5, 107.6). These sections contain the salary schedules that went into effect 4/1/83 and 9/1/83. Section 107.5 was effective 4/1/83 and section 107.6 was effective 9/1/83.

Part 116 of the Rules of the Chief Administrator (22 NYCRR Part 116), relating to the Community Dispute Resolutions Program, was amended to add a new section 116.8 relating to records retention. Eff. 3/16/83.

Part 118 of the Rules of the Chief Administrator (22 NYCRR Part 118), relating to attorney registration, was amended to add to section 118.2 (a), a schedule of fees to be paid by persons seeking information compiled under the attorney registration program. Eff. 1/10/83.

Sections 660.22, 699.11, 863.4 and 1039.14, (22 NYCRR 660.22, 699.11, 863.4, 1039.14), relating to matrimonial actions in the Supreme Court in the First, Second, Third and Fourth Judicial Departments, were amended to conform to new Part 117 of the Rules of the Chief Administrator (22 NYCRR Part 117), *supra*. Eff. 6/1/83.

1984 Report

of the

Advisory Committee on Civil Practice

to the

Chief Administrator of the Courts

of the

State of New York

February 15, 1984

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Introduction

The members of the Committee are Dean Sheila L. Birnbaum, Chairperson, Robert M. Blum , Leon Brickman, Robert L. Conason, Edward C. Cosgrove, William D. Eggers, Myrna Felder, John T. Frizzell, Hyman W. Gamso, Raymond W. Hackbarth, James J. Harrington, Edward J. Hart, Richard B. Long, John A. Murray, Richard Rifkin, Leo Salon, Professor David D. Siegel, Shirley Adelson Siegel and Peter G. Smith.

Robert M. Blum became a member of the Committee shortly before the issuance of this Report.

During the past year, nine new members were appointed to the Committee by the Chief Judge of the State, thus bringing to the Committee additional experts in various areas of growing importance, such as matrimonial proceedings, medical malpractice, public agencies and small claims procedure. The expanded membership also has resulted in the appointment by the Chairperson of several standing subcommittees for consideration of particular topics on the Committee's annual legislative program.

Resignations were regretfully accepted from Robert T. Greig and Henry L. King, whose increased professional responsibilities prevent their continued participation in the Committee's work at this time, and from Professor Paul S. Graziano, who has recently retired from teaching at St. John's University School of Law. The members of the Committee wish to extend a special thanks to Mr. Greig for his work on the Committee's disclosure proposals, and to Professor Graziano for his sound advice, scholarship, invaluable expertise and boundless energy.

The Report consists of five parts, as follows:

Part I briefly discusses the disposition of the Committee's 1983 proposals which were submitted to the Legislature.

Part II sets forth the Committee's 1984 recommendations on disclosure, a few of which differ from those recommended in the 1983 Report. The changes, which are indicated in the Report, were adopted by the Committee on the basis of comments and recommendations received from the Legislature, as well as from bench and bar, on the solicitation of the Committee in its 1983 Report.

Part III reports on all the Committee's proposals to the 1984 Legislature, other than those on disclosure contained in Part II and those on the statute of limitations for actions based on latent injuries caused by a toxic or harmful substance or a hazardous waste, contained in Part IV, setting forth the text of the recommended legislation with accompanying explanatory notes.

Part IV contains the recommendation of the Committee for legislation to provide a statute of limitations for an action to recover damages for personal injury or injury to property caused by a toxic or harmful substance or a hazardous waste.

Part V concludes the Report with a summary of the Committee's continuing projects and new plans for future legislation.

Although the details are beyond the scope of this Report, it should be mentioned that, in addition to recommending its annual legislative program, the Committee, at the Legislature's request, reviews and comments on pending measures, other than its own, to revise civil procedures in the courts.

The Committee wishes to acknowledge the continuous aid and assistance of its counsel, Willian A. Bulman and John P. Brosnan of the Office of Court Administration.

Part I - Disposition of 1983 Recommendations

1. CPLR 308, CPLR 3215 (e), (f) (S. 4335; A. 5951).

This bill, which provides that where an action is based on a consumer credit transaction, an additional notice of default judgment must be given, was not enacted last year and is resubmitted this year. The bill appears at pages 55-57 of this Annual Report together with a discussion of the bill's purpose and the circumstances which prompt its resubmission.

2. CPLR 2004, 105 (S. 4346-A; A. 6743-A).

This bill, which was designed to modify New York case law by providing for excusable default in the instance of law office failure, was enacted as redrafted to amend CPLR 2005 and CPLR 3012 by Chapter 318 of the Laws of 1983.

3. CPLR 3041, 3042 (S. 4233).

This bill, which would streamline the procedures governing the use of bills of particulars by reducing motion practice and curbing related abuses, was not enacted in 1983 and is resubmitted with only a minor technical amendment. The bill appears with comment on pages 58-60 of this Annual Report.

4. CPLR Article 31 (S. 5117; A. 6597).

This bill proposes major changes in the provisions of the CPLR which would generally liberalize, update and improve the provisions of the CPLR relating to Disclosure. It was not enacted in 1983 and is resubmitted with several significant revisions. The bili appears with comment at pages 45-55 of this Annual Report.

5. CPLR 3222 (b) (1), 6001 (S. 5116; A. 6158).

This bill would strike references to civil arrest, obsolete since the abolition of the provisional remedy by Chapter 409 of the Laws of 1979. Having failed of enactment last year, the bill is resubmitted and appears with comment on page 60 of this Annual Report.

6. CPLR 5250 (S. 5115; A. 6248).

This bill, which would repeal CPLR 5250 to abolish the remedy of civil arrest as an adjunct in the enforcement of money judgments, consistent with the 1979 abrogation of the analogous provisional remedy, failed to pass last year. It is resubmitted this year and appears with comment on pages 60-61 of this Annual Report.

7. CPLR 5601

This proposal was designed to curtail appeals as of right to the Court of Appeals in order to permit the Court to select more cases of significance by relying more fully on permissive appeal. Although, as indicated in its 1983 Report, which did not contain the bill, the Committee considered recommending, later in the session, a revised version of its 1982 bill, it withheld submission upon independent introduction of a more comprehensive constitutional amendment to accomplish the same purpose, which remains before the Legislature.

8. CPLR 6313 (a) (S. 4172; A. 5869).

By facilitating the giving of informal notice of applications for temporary restraining orders, this bill is intended to make such notice routine, except in exigent circumstances. The bill, which was not enacted last year, is resubmitted this year and appears with comment on pages 61-62 of this Annual Report.

9. CPLR 7502 (c) (S. 5014)

This bill, amending CPLR 7502 to include new subdivision (c), would make the provisional remedies of attachment and injunction available in Article 78 proceedings, upon order of court. The bill, which failed of enactment last year, is resubmitted this year and appears with comment on pages 62-63 of this Annual Report.

10. CPLR 7503 (S. 4211; A. 5903).

This bill would add new subdivision (d) to CPLR 7503, to direct that the trial of issues of fact arising on an application to compel or stay an arbitration be conducted without a jury. Having failed to pass last year, the bill is resubmitted this year and appears with comment on pages 63-64 of this Annual Report.

11. CPLR 7804 (g) (S. 3460; A. 5902).

This bill, which was not enacted last year, would facilitate disposition of Article 78 proceedings by making clear which issues of law the Supreme Court is to resolve before transferring the case to the Appellate Division for review of the substantial evidence question. The bill is resubmitted this year and appears with comment on pages 64-65 of this Annual Report.

12. CPLR 8001 (a) (S. 4178; A. 6323).

This bill, which was not enacted last year, will be resubmitted this year in order to update attendance fees and travel expenses payable to witnesses. The bill, as revised, appears with comment on page 65 of this Annual Report.

13. 8201-8204 (S. 6544; A. 5773).

Owing to the increased level of inflation, this bill would effect an upward revision of court costs and would provide for uniform statewide application. The bill, which failed of enactment last year, is resubmitted this year and appears with comment on pages 65-67 of this Annual Report.

14. CCA §1809, UCCA §1809, UDCA§1809, UJCA §1809 (S. 4171; A. 5772).

This bill would amend identical sections of the New York City Civil Court Act and the uniform court acts to simplify the provisions and to strike restrictive language which otherwise would continue to limit appearance without attorney by corporate defendants in small claims actions to those corporations only which qualify under the existing language. This measure, while not in any way altering the present prohibition against a corporation as a plaintiff commencing a small claim action, with or without an attorney, would permit any corporation to *defend* a small claims action through an officer, director or employee, who need not be a attorney. The bill, which failed to pass last year, is resubmitted this year and appears with comment on pages 67-68 of this Annual Report.

Part II - Recommendations on Disclosure

CPLR Article 31 (S. 5117-A; A. 6597-A, as proposed to be amended).

Upon assidous study, over a period of years, of the law and practice of disclosure in civil actions, the Committee recommended to the 1983 Legislature a bill generally revising Article 31, the disclosure article of the CPLR, in order to ensure fairness to litigants and to effect the expeditious disposition of civil actions.
as proposed to be amended).

During and after the 1983 Session, the Committee thoroughly discussed the many comments on the bill received from bench and bar, partly in response to Committee solicitation. In addition, the Chairperson and some members of the Committee and its staff have discussed at length the entire bill with legislative representatives. On the basis of these deliberations, the Committee recommends a revised version of its 1983 bill (Senate 5117, Assembly 6597).

Revisions of 1983 bill

In order to better pinpoint the proposed revisions and to fix them in context, they are herewith cited and briefly described, prefatory to a more extended treatment in the subsequent Recommendation and Comment, as follows:

1. CPLR 3101 (a) (Scope of Disclosure) Matrimonial actions

The Committee, after careful consideration, proposes to include in the Memorandum in Support a statement of legislative intent clearly setting forth that the proposed amendments are not intended to affect existing or evolving statutes or decisional law as to the availability of disclosure in matrimonial actions or custody or visitation proceedings. This special reference to matrimonial actions is deemed by the Committee to be important to clarify the effect of the amendments upon disclosure in those types of actions.

2. CPLR 3101 (d) (1) (i) (Scope of Disclosure) Expert Witnesses

The Committee proposes to eliminate medical malpractice actions from application of the provision governing pretrial disclosure of the identity of experts (proposed CPLR 3101 (d) (1) (i), because the Committee has been advised that the mandatory pretrial disclosure of the identity of experts required by that provision poses unique problems in medical malpractice actions. Obtaining disclosure by a party of that party's own treating physician or retained medical expert as now permitted by present CPLR 3101 (a) (3), will continue to be permitted under proposed CPLR 3101 (d) (iii) without need for a prior court order or for the showing of special circumstances.

3. CPLR 3101 (g) (Scope of Disclosure) Accident Reports.

The Committee, after reconsideration, withdraws its previous recommendation for the repeal of the existing provision for pre-trial disclosure of accident reports. Although a strong body of opinion holds this subdivision to be superflous as a restatement of existing law, the comments received by the Committee on its proposed repeal indicate that repeal would further complicate this area of law since it might be construed as a substantive change.

4. CPLR 3101 (i) (Scope of Disclosure) Amendment or Supplementation of responses to requests for disclosure

The Committee proposes, consistent with its over-all intent to accelerate proceedings, to interject the imperative of *prompt* amendment or supplementation of responses by a party to requests for disclosure, which otherwise, in the light of newly acquired knowledge, would be materially misleading. Heretofore, the proposal failed to specify that such amendment should be made promptly upon the perception of its necessity.

As so revised in the light of extensive public and professional comment on the 1983 recommendations, the foregoing revisions of last year's proposals, set forth and more fully explained hereafter, represent the broadest possible consensus on a measure which promises speedier justice by means of a major improvement in civil procedure governing disclosure.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to disclosure

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-one hundred one of the civil practice law and rules, as subdivision (f) thereof was added by chapter six hundred sixty-eight of the laws of nineteen hundred seventy-five, and as subdivision (a) thereof was amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, and as subdivision (g) thereof was added by chapter two hundred eighty-three of the laws of nineteen hundred eighty, is amended to read as follows:

Section 3101. Scope of disclosure.

(a) Generally. There shall be full disclosure of all [evidence material and necessary in] *matter relevant to* the prosecution or defense of an action, regardless of the burden of proof, by *any person*[:

(1) a party, or the officer, director, member, agent or employee of a party;

(2) a person who possessed a cause of action or defense asserted in the action;

(3) a person about to depart from the state, or without the state, or residing at a greater distance from the place of trial than one hundred miles, or so sick or infirm as to afford reasonable grounds of belief that he will not be able to attend the trial, or a person authorized to practice medicine who has provided medical care or diagnosis to the party demanding disclosure, or who has been retained by him as an expert witness; and

(4) any person where the court on motion determined that there are adequate special circumstances].

(b) Privileged matter. Upon objection [by a party] privileged matter shall not be obtainable.

(c) Attorney's work product. The work product of an attorney shall not be obtainable.

(d) *Trial Preparation.* [Material prepared for litigation. The following shall not be obtainable unless the court finds that the material can no longer be duplicated because of a change in conditions and that withholding it will result in injustice or undue hardship:

(1) any opinion of an expert prepared for litigation; and

(2) any writing or anything created by or for a party or his agent in preparation for litigation.]

1. Experts. Disclosure of facts known and opinions held by experts, otherwise discoverable under the provisions of subdivision (a) of this section and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(i) Upon request a party shall (A), except in an action for medical malpractice, identify each person whom such party expects to call as an expert witness at trial and (B) disclose in reasonable detail the subject matter on which an expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for the opinion.

(ii) Disclosure by a person whom a party expects to call as an expert witness or by an expert retained or specially employed by the party in anticipation of litigation or for trial may be obtained only by court order upon a showing of special circumstances and subject to such restrictions as to scope and such provisions concerning fees and expenses as the court may deem appropriate.

(iii) Notwithstanding any other provisions of this section, a party may obtain disclosure of a person authorized to practice medicine who has provided medical care or diagnosis to the party demanding disclosure or who has been retained by that party as an expert witness without a court order or the showing of special circumstances.

2. Materials. Subject to the provisions of paragraph one of subdivision (d), materials otherwise discoverable under subdivision (a) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including an attorney, consultant, surety, indemnitor, insurer or agent) may be obtained only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation.

(e) Party's statement. A party may obtain a copy of his own statement.

(f) Contents of insurance agreement. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purpose of this subdivision, an application for insurance shall not be treated as part of an insurance agreement.

(g) Accident reports. Except as otherwise provided by law, in addition to any other matter which may be subject to disclosure, there shall be full disclosure of any written report of an accident prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity, unless prepared by a police or peace officer for a criminal investigation or prosecution and disclosure would interfere with a criminal investigation or prosecution.

(h) Witnesses. A party shall disclose the names and the addresses of all persons having knowledge of any matter discoverable under this section.

(i) Amendment or supplementation of responses. A party who has responded to a request for disclosure shall promptly amend or supplement the response upon the party's thereafter obtaining information that the response was incorrect when made or that the response though correct and complete when made is no longer correct and complete, and the circumstances are such that a failure to amend or supplement the response would be materially misleading. Further amendment or supplementation may be obtained by court order.

§2. Subdivision (c) of rule thirty-one hundred two of such law and rules is amended to read as follows:

(c) Before action commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order. The court may appoint a referee to take testimony. [Where such disclosure is obtained for use in an action involving title to real property the deposition or other document obtained shall be promptly recorded in the office of the clerk of the county in which the real property is situated.]

§3. Subdivision (a) of section thirty-one hundred three of such law and rules is amended to read as follows:

(a) Prevention of abuse. The court may at any time on its own initiative, or on motion of any party [or witness] *or of any person from whom discovery is sought*, make a protective order denying, limiting, conditioning or regulating the use of any disclosure device. Such order shall be designed to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts.

§4. Rule thirty-one hundred six of such law and rules is amended to read as follows:

Rule 3106. Priority of depositions; witnesses; prisoners; *designation of deponent.*

(a) Normal priority. After an action is commenced, any party may take the testimony of any person by deposition upon oral or written questions. Leave of the court, granted on motion, shall be obtained if notice of the taking of the deposition of a party is served by the plaintiff [within twenty days after service of the complaint] *before that party's time for serving a responsive pleading has expired.*

(b) Witnesses. Where the person to be examined is not a party or a person who at the time of taking the deposition is an officer, director, member or employee of a party, he shall be served with a subpoena. Unless the court orders otherwise, on motion with or without notice, such subpoena shall be served at least ten days before the examination. Where a motion for a protective order against such an examination is made, the witness shall be notified by the moving party that the examination is stayed.

(c) Prisoners. The deposition of a person confined under legal process may be taken only by leave of the court.

(d) Designation of deponent. A party desiring to take the deposition of a particular officer, director, member or employee of a person shall include in the notice or subpoena served upon such person the identity, description or title of such individual and such person shall produce the individual so designated.

§5. Rule thirty-one hundred eight of such law and rules, as redesignated by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, and as amended by chapter five hundred thirty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3108. Written questions [; when permitted].

A deposition may be taken on written questions [when the examining party and the deponent so stipulate or when the testimony is to be taken without the state]. A commission or letters rogatory may be issued where necessary or convenient for the taking of a deposition outside of the state.

§6. Subdivision (a) of rule thirty-one hundred nine of such law and rules is amended to read as follows:

(a) Notice of taking; service of questions and cross-questions. A party desiring to take the deposition of any person upon written questions shall serve such questions upon each party together with a notice stating the name and address of the person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within [ten] *thirty* days thereafter a party so served may serve written cross-questions upon each party. Within [five] *ten* days thereafter the original party may serve written recross-questions upon each party.

§7. Paragraph 2 of subdivision (a) of rule thirty-one hundred thirteen of such law and rules is amended to read as follows:

2. without the state but within the United States or within a territory or possession subject to the [dominion] *jurisdiction* of the United States, a person authorized to take acknowledgements of deeds outside

of the state by the real property law of the state or to administer oaths by the laws of the United States or of the place where the deposition is taken; and

§8. Subdivision (a) of rule thirty-one hundred sixteen of such laws and rules, as amended by chapter two hundred ninety-two of the laws of nineteen hundred seventy-eight, is amended to read as follows:

(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reason given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath [, except that a witness who is an adverse party shall not be required to sign such deposition upon thirty days prior written notice to return the examination signed]. If [a] *the* witness [, other than an adverse party,] fails to sign the deposition, [the officer before whom the deposition was taken shall sign it and state on the record the fact of the witness' failure or refusal to sign, together with any reason given. The deposition] *it* may [then] be used fully as though signed.

§9. Subdivision (a) of rule thirty-one hundred twenty of such law and rules, as redesignated by chapter three hundred fifteen of the laws of nineteen hundred sixty-two, and as amended by judicial conference proposal number two of nineteen hundred sixty-six, is amended to read as follows:

(a) As against party:

1. After commencement of an action, any party may serve on any other party notice:

(i) to produce and permit the party seeking discovery, or someone acting on his behalf, to inspect, copy, test or photograph any [specifically] designated documents or any things which are in the possession, custody or control of the party served [, specified with reasonable particularity in the notice]; or

(ii) to permit entry upon designated land or other property in the possession, custody or control of the party served for the purpose of inspecting, measuring, surveying, sampling, testing, photographing or recording by motion pictures or otherwise the property or any [specifically] designated object or operation thereon.

2. The notice shall specify the time, *which shall be not less than twenty days after service of the notice, and the* place and manner of making the inspection, copy, test or photograph, or *of* the entry upon the land or other property *and, in the case of an inspection, copying, testing or photographing, shall set forth the items to be inspected, copied, tested or photographed by individual item or by category, and shall describe each item and category with reasonable particularity.*

§10. Subdivision (a) of section thirty-one hundred twenty-one of such law and rules is amended to read as follows:

(a) Notice of examination. After commencement of an action in which the mental or physical condition or the blood relationship of a party, or of an agent, employee or person in the custody or under the legal control of a party, is in controversy, any party may serve notice on another party to submit to a physical, mental or blood examination by a designated physician, or to produce for such examination his agent, employee or the person in his custody or under his legal control. The notice may require duly executed and acknowledged written authorizations permitting all parties to obtain, and make copies of, the notice shall be served on the person to be examined. It shall specify the time, *which shall be not less than twenty days after service of the notice, and the* conditions and scope of the examination.

§11. Rule thirty-one hundred twenty-two of such law and rules, as amended by chapter eighty of the laws of nineteen hundred seventy-nine, is amended to read as follows:

Rule 3122. Objection to discovery, inspection or examination.

Within [ten] *twenty* days of service of a notice under rule 3120 or section 3121, [a] *the* party *to whom the notice is directed* [may serve a notice of motion for a protective order, specifying his objections.], *if that party objects to the disclosure, inspection or examination, shall serve a response which shall state with reasonable particularity the reasons for each objection. If objection is made to part of an item or category, the part shall be specified. The party seeking disclosure under rule 3120 or section 3121 may move for an order under rule 3124 with respect to any objection to or other failure to respond to, or permit inspection as requested by, the notice, or any part thereof.*

§12. Subdivision (a) of section thirty-one hundred twenty-three of such law and rules, as amended by chapter five hundred thirty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

(a) Notice to admit; admission unless denied or denial excused. At any time after service of the answer or after the expiration of twenty days from service of the summons , whichever is sooner, and not later than twenty days before the trial, a party may serve upon any other party a written request for admission by the latter of the genuineness of any papers or documents, or the correctness or fairness of representation of any photographs, described in and served with the request, or of the truth of any matters of fact set forth in the request, as to which the party requesting the admission reasonably believes there can be no substantial dispute [at the trial] and which are within the knowledge of such other party or can be ascertained by him upon reasonable inquiry. Copies of the papers, documents or photographs shall be served with the request unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless within twenty days after service thereof or within such further time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reason why he cannot truthfully either admit or deny those matters, *or, if the denial is based upon lack of knowledge, that the means of securing such knowledge is not reasonably available to the party.* If the matters of which an admission is requested cannot be fairly admitted without some material qualification or explanation, or if the matters constitute a trade secret or such party would be privileged or disqualified from testifying as a witness concerning them, such party may, in lieu of a denial or statement, serve a sworn statement setting forth in detail his claim and, if the claim is that the matters cannot be fairly admitted without some material qualification or explanation, admitting the matters with such qualification or explanation.

§13. Rule thirty-one hundred twenty four is REPEALED, and a new section, to be section thirty-one hundred twenty-four, is added, to read as follows:

3124. Failure to disclose; motion to compel disclosure.

If a person fails to respond to or comply with any request, notice, interrogatory, demand, question or order under this article, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response. For purposes of this section, an evasive or incomplete answer is a failure to comply.

§14. Section thirty-one hundred twenty-six of such law and rules, as amended by chapter forty-two of the laws of nineteen hundred seventy-eight, is amended to read as follows:

Section 3126. Penalties for [refusal] *failure* to comply with orders or to disclose.

If any party, or a person who at the time a deposition is taken or an examination or inspection is made [,] is an officer, director, member, employee or agent of a party or otherwise under a party's control, [refuses] *fails* to obey an order for disclosure or willfully fails to disclose information which the court finds ought to have been disclosed pursuant to [notice duly served] *this article,* the court may make such orders with regard to the failure [or refusal] as are just, among them:

1. an order that the issues to which the information is relevant shall be deemed resolved for purposes of the action in accordance with the claims of the party obtaining the order; or

2. an order prohibiting the disobedient party from supporting or opposing designated claims or defenses, from producing in evidence designated things or items of testimony, or from introducing any evidence of the physical, mental or blood condition sought to be determined, or from using certain witnesses; or

3. an order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or any part thereof, or rendering a judgment by default against the disobedient party.

§15. Such law and rules are amended by adding a new section, to be section thirty-one hundred twenty-seven of such law and rules, to read as follows:

§3127. Award of costs and expenses of motions.

(a) If a motion under section 3103, 3124, or 3126 is granted, the court shall require the party or person whose conduct necessitated the motion or the attorney advising such conduct or both to pay to the moving party the costs and reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

(b) If a motion under section 3103, 3124, or 3126 is denied, the court shall require the moving party or the attorney advising the motion or both to pay to the party or person who opposed the motion the costs and reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

(c) If a motion under section 3103, 3124, or 3126 is granted in part and denied in part, the court shall apportion costs and reasonable expenses incurred in relation to the motion, including attorney's fees, among the parties and persons in a just manner.

§16. Section thirty-one hundred thirty of such law and rules, as amended by chapter one hundred ninety-seven of the laws of nineteen hundred seventy-nine, is amended to read as follows:

Section 3130. Use of interrogatories.

After commencement of an action, any party may upon any other party written interrogatories. A party may not serve written interrogatories on another party and also demand a bill of particulars pursuant to section 3041 [nor, in the case of an action to recover damages for an injury to property or a personal injury resulting from negligence of wrongful death, take a deposition pursuant to rule 3107] without leave of court.

§17. Rule thirty-one hundred thirty-two of such law and rules, as added by chapter four hundred twenty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3132. *Normal priority* [Service] of interrogatories.

[After commencement of an action, any party may serve upon any other party written interrogatories.]

If service *of written interrogatories* is made by any plaintiff upon any defendant [within twenty days after service upon him of the summons and complaint, or service is made by any defendant upon the plaintiff within five days after service upon him of the summons and complaint] *before that defendant's time for serving a responsive pleading has expired,* leave of court granted [with or without notice] *on motion* must be obtained. A copy of the interrogatories and of any order made under this rule shall be served on each party.

§18. Rule thirty-one hundred thirty-three of such law and rules, as added by chapter four hundred twenty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3133: *Service of answers or* [Objections] *objections* to interrogatories.

(a)[When objection may be made] *Service of an answer or objection.* Within [ten] *thirty* days after service of interrogatories, the party upon whom they are served [may move upon notice to strike out any interrogatory, stating the grounds for objection.

(b) Suspension pending ruling. The answer to any interrogatory to which objection is made shall be deferred until the objections are ruled on by the court] *shall serve upon each of the parties a copy of the answer to each interrogatory, except one to which the party objects, in which event the reasons for the objection shall be stated with reasonable particularity.*

(b) Form of answers and objections to interrogatories. Interrogatories shall be answered in writing under oath by the party upon whom served, if an individual, or, if the party served is a corporation, a partnership, or a sole proprietorship, by any officer, director, member, agent or employee having the information. Each question shall be answered separately and fully and each answer shall be preceded by the question to which it responds. Objections to interrogatories shall be signed by the attorney for the party making them.

(c) Amended answers. Except with respect to amendment or supplementation of responses pursuant to subdivision (i) of section 3101, answers to interrogatories may be amended or supplemented only by order of the court upon motion.

§19. Rule thirty-one hundred thirty-four of such law and rules in REPEALED.

§20. Section thirty-one hundred forty of such law and rules, as added by chapter six hundred forty of the laws of nineteen hundred sixty-seven, is amended to read as follows:

§3140. Disclosure of appraisals in proceedings for [condemnanation] *condemnation,* appropriation or review of tax assessments.

Notwithstanding the provisions of subdivisions (c) and (d) of section 3101, the [appellate division in each judicial department] *chief administrator of the courts shall adopt rules governing the exchange of appraisal reports intended for use at the trial in proceedings for condemnation, appropriation or review of tax assessments.*

§12. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Note: Rule 3124, relating to motion to compel disclosure, would be REPEALED and replaced by new section 3124. Rule 3134, relating to answers to interrogatories, would be REPEALED and the matter inserted in §3133.

Comment

Over the three-year period during which the committee devoted a major share of its time to this important project, each member contributed significantly to the final product. Special mention, however, is owing to Robert T. Greig, Esq., formerly a member of the Committee, and the Honorable William P. McCooe, Justice of the Supreme Court, a consultant to the Committee, for their outstanding dedication of time, effort and talent to the drafting of the proposals set forth herein.

In general, this measure is being proposed in order to accomplish the following ends: (1) general liberalization disclosure with some restrictions recognized or retained for medical malpractice and matrimonial actions, (2) codification of recent New York case law, (3) greater statewide uniformity in disclosure proceedings,

(4) elimination of the "adequate special circumstances" requirement for deposing nonparty witnesses, (5) establishment of a pretrial notice procedure to obtain, except in medical malpractice actions, the names of experts retained for appearance at the trial, and to obtain the anticipated substance of the experts' testimony, (6) curtailment of expensive and time-consuming motion practice, and (7) the imposition of adequate sanctions, such as the payment of costs and reasonable attorneys' fees, against parties who ignore or misuse the disclosure process.

A more detailed explanatory commentary upon this measure, addressed in progressive order to each section of law proposed to be amended in CPLR Article 31, follows:

Section 3101

Subdivision (a)

The preamble and subdivision (a) of section 3101 would be amended to permit disclosure of "relevant" matter by "any person". This change would reflect the broad interpretation given to the existing "material and necessary" standard by the Court of Appeals in *Allen* v. *Crowell-Collier Publishing Co.*, 21 N.Y. 2d 403 (1968), and would conform the statutory language to the standard that is generally applied in practice. *See Hoenig* v. *Westphal*, 52 N.Y. 2d 605, 608 (1981); *Prink* v. *Rockfeller Center, Inc.*, 48 N.Y. 2d 309, 314 n. 1(1979). The amendment would also make it clear that disclosure is not limited to information and materials which would be admissible as evidence at trial.

However, with respect to matrimonial actions, and custody and visitation proceedings, the committee does not intend to affect existing or evolving statutes and decisional law as to the availability of disclosure.

The existing enumeration of persons subject to disclosure would be eliminated, since the amendment would permit the disclosure of relevant matter by any person, including but not limited to those specified under the existing provisions, without the need for showing "adequate special circumstances".

Under the current language in Section 3101 (a) (4), there has been considerable disagreement about the showing of "adequate special circumstances" that will warrant disclosure of information from nonparties. *See, e.g., Cirale* v. *Pine Street Corp.*, 35 N.Y. 2d 113, 116 (1974); *Mogollon* v. *South African Marine Corp.*, 80 A.D. 2d 636 (2nd Dept. 1981); *Kenford Co.* v. *County of Erie*, 41 A.D. 2d 586 (4th Dept. 1973); *Pascoe* v. *Long Island R.R. Co.*, 44 A.D. 2d 829 (2d Dept. 1974). Under the standard most frequently applied, the mere statement by an attorney that a deposition is needed in order to prepare fully for trial has been held to constitute a sufficient showing of "special circumstances". *See, e.g., Gersten* v. *New York Hospital*, 82 A.D. 2d 632 (2d Dept. 1981); *Jones* v. *Wissenbach*, 80A.D. 2d 760 (2nd Dept. 1981); *see* 3A Weinstein, Korn and Miller, N.Y. Civ. Prac. §3101.32. The procedure applicable to disclosure from nonparties under Section 3101 (a) (4) has also been the subject of controversy and has fostered considerable motion practice. The courts have reached contrary results as to whether a preliminary motion is required in every case, *see e.g., Bonito Maritime, Corp.* v. *St. Paul Mercury Ins. Co.*, 68 A.D. 2d 864 (1st Dept. 1979) (concurring opinion); *Post* v. *Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 79 A.D. 2d 558 (1st Dept. 1980); *Kurzman* v. *Burger*, 98 Misc. 2d 244 (Sup. Ct., N.Y. Co., 1979), or whether it is proper to proceed by subpoena and notice, *see e.g., McNulty* v. *McNulty*, 81 A.D. 2d 581 (2d Dept. 1981); *Bush Homes, Inc.* v. *Franklin National Bank of Long Island*, 61 Misc. 2d 495 (Sup. Ct., Nassau Co., 1969).

These provisions require amendment. The Committee believes that the notice and subpoena procedure is preferable to requiring a motion and further believes that disclosure should be permitted against all nonparties having information relevant to the prosecution or defense of a civil action. Although the amendment would remove the standard of "material and necessary" in the opening paragraph of section 3101 (a) and the standard of "adequate special circumstances" in section 3101 (a) (4), the Committee believes that adequate safeguards against abuse remain in the power of the Court under section 3103 (a) to make a protective order "to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts." On the premise that trial attorneys generally will use the disclosure devices in a responsible manner, the amendment would shift the burden of making the motion from the party seeking disclosure to the party or nonparty witness opposing it. The Committee believes that this amendment would reduce motion practice, with the associated demands on judicial resources.

Subdivision (b)

Subdivision (b) would be amended to reflect the fact that the holder of the privilege in question need not be a party to the action in order to invoke the privilege.

Subdivision (c)

Subdivision (c) would not be amended. The scope of the "work product" rule has been adequately defined by case law and commentators. Subdivision (c) should be construed narrowly "to include only those materials prepared by the attorney, acting as an attorney, and containing his or her analysis and trial strategy." 3A Weinstein, Korn & Miller N.Y. Civ. Prac. §3101.44.

Under this narrow construction, materials that are subject to disclosure under the amended provisions of subdivision (d) would not be protected under subdivision (c).

Subdivision (d)

Subdivision (d) would be amended to expand and clarify the scope of pretrial discovery in two areas which have been a source of many problems in practice. Subdivision (d)(1) would be amend to establish that, with the exception of expert witnesses on issues related to alleged medical malpractice, a party is entitled to obtain the identity of persons that another party expects to call as expert witnesses at trial. In all actions, including medical malpractice actions, a party will be able to obtain the substance of the facts and opinions concerning an expert's expected testimony. Subdivision 3101 (d) (1) currently allows pretrial discovery of the opinions of an expert prepared for trial only in very limited circumstances. In the opinion of the Committee, experience in New York under this rule has confirmed the observation made by the Advisory Committee on the Federal Rules of Civil Procedure in its notes to the 1970 amendments to the federal rules that "a prohibition against discovery of information held by expert witnesses produces in acute form the very evils that discovery has been created to prevent." As amended, subdivision (d) (1) would incorporate the substance of the federal rule on the discovery of experts expected to testify at trial, except for divulging the identity of expert witnesses in medical malpractice actions, where, the committee has been advised, mandatory pretrial identification of expert witnesses poses unique problems.

The procedure for obtaining disclosure of an expert would be any of the procedures available for obtaining information from a party (*e.g.* a request, interrogatories). As under the federal rules, the amendment would enable the parties to conduct the basic discovery regarding experts without court intervention, but would not preclude further discovery by court order in appropriate circumstances and with appropriate protection against misuse of the discovery process. However, obtaining disclosure by a party of that party's own treating physician or retained medical expert, as now permitted by CPLR 3101 (a) (3), will continue to be permitted, pursuant to CPLR 3101 (d) (iii) without need for a prior court order or for the showing of special circumstances. The decisions of the federal courts applying Fed. R. Civ. P. 26 (b) (4) would provide guidance in the interpretation of the amended subdivision (d) (1). It is contemplated that discovery under subdivision (d) (1) (ii) would be permitted only for compelling reasons or if a party fails to make a good faith response to a request under subdivision (d) (1) (i). A party who, when served with a request under subdivision (d) (1), does not expect to call any expert witnesses or has not determined which, if any, experts the party expects to call as expert witnesses, would be required to give written notice to that effect to the party serving the request. However, if, subsequent to responding to the request, the party's expectation changed, supplementation or amendment of and the response would be required under subdivision (i), as failure to amend or supplement a response to the effect that a party does not at the time of responding expect to call any expert witnesses at trial would become materially misleading if the party making the response subsequently decided to call such a witness.

The amendment of subdivision (d) (2) would similarly expand the scope of pretrial discovery of materials prepared in anticipation of litigation or for trial, although such discovery would continue to be permitted in only fairly narrow circumstances. As is the case with subdivision (d) (1), subdivision (d) (2) follows the federal rule and those could be interpreted in light of federal decisions.

Subdivision (g)

Subdivision (g) was enacted in 1980 presumably to protect accident reports from being withheld as a species of material prepared for litigation under CPLR 3101 (d). Far from simplifying matters, the new statute, intended as a remedial measure, unexpectedly generated a host of conflicting judicial opinions, the complications of which are set forth in Siegel, *New York Practice*, §348, and in an article by the same author in New York State Law Digest, No. 279, March 1983. The Committee initially was of the opinion that the new subdivision was superfluous as a mere restatement of existing law and added nothing to the CPLR. However, since proposing repeal in 1983, the Committee has received a number of suggestions to withdraw that proposal and, after extended discussion, has determined that the wisest option, to avoid further complication in the law, would be withdrawal of the proposal for repeal. Therefor, the Committee proposes to retain CPLR 3101 (g), the basic purpose of which is to preserve the disclosability of accident reports, in the firm expectation that conflicting departmental appellate interpretations of the statute will in due time be resolved by the Court of Appeals.

It is recommended that the remaining subdivision of CPLR 3101 be relettered accordingly by amending in 1984 the bill introduced in 1983.

New subdivision (h) would explicitly allow discovery of the identity and location of all persons, such as eye and notice witnesses, having knowledge of any discoverable matter. This provision would overrule those New York decisions holding that the work those New York decisions holding that the work product rule, which would be retained intact in subdivision (c), applies to the names and addresses of witnesses located by an attorney in the course of an investigation conducted in preparation for a trial. *See Zayas v. Morales*, 45 A.D. 2d 610, 613 (2d Dept. 1974). A party making a request for information pursuant to subdivision (b) would, of course, be required to frame the request with a reasonable degree of specificity as to the discoverable matters with respect to which the request is being made. A bald request for information concerning "all persons having knowledge of any discoverable matter" would ordinarily be unreasonable.

Subdivision (i)

The CPLR does not contain a provision comparable to Fed. R. Civ. P. 26(e) explicitly requiring a party under certain circumstances promptly to supplement or amend responses to discovery requests. New subdivision (i) would incorporate the substance of the federal rule, which, the Committee believes establishes a reasonable balance between the need to maintain the integrity of responses to discovery requests and the need to avoid imposing on a party a burdensome obligation to review and update on a continuing basis responses to discovery requests. New subdivision (i) would apply to all disclosure devices including, as discussed above, a request made pursuant to new subdivision (d) (1).

Rule 3102 (c)

The requirement as to the recording of depositions and documents obtained for an action involving title to real property would be deleted. The Committee believes that the inconvenience of such recording and the possibility that it might create an unjustified cloud on title to property outweigh what little benefit such recording might have in alerting title searchers to any claim involving title to the property in question.

Section 3103(a)

Subdivision (a) would be amended to make it clear that any person who is the subject of a discovery request, whether or not a party or a witness, is entitled to move for a protective order.

Rule 3106

Subdivision (a)

Subdivision (a) would be amended for purposes of clarification and consistency with its judicial interpretation. *See e.g., Kraft* v. *Trustees of Sailors' Snug Harbor*, 31 A.D. 2d 918 (1st Dept. 1969).

Subdivision (d)

New subdivision (d) is intended to prevent the needless delay and expense which occurs when a person other than a natural person produces for deposition an individual lacking relevant knowledge. An inappropriate designation of an individual to be deposed would be subject to a motion for a protective order under Section 3103. The term "person" used in this subdivision would include, in addition to a natural person, any entity legally recognized as a person, such as a corporation, partnership or association.

Rule 3108

The taking of a deposition upon written questions is an inexpensive method of conducting discovery and may be appropriate in a number of situations not recognized by Rule 3108 in its existing form. The proposed amendment would eliminate the "undesirable" limitations on the taking of a deposition upon written questions. See 3A Weinstein, Korn & Miller N.Y. Civ. Prac. §§3108.02, 3108.03.

Rule 3109 (a)

The time currently permitted under Rule 3109 (a) for serving written questions does not allow for adequate preparation. The amendment would conform Rule 3109 (a) with the federal practice pursuant to Fed. R. Civ. P. 31(a). The Court would in any event have power to enlarge or shorten the time for serving written questions.

Rule 3113 (a) (2)

The amendment would eliminate a formal discrepancy between federal and state practice created by the 1980 amendment to Fed. R. Civ. P. 28 (a).

Rule 3116 (a)

The amendment would in effect extend the 1978 amendment of subdivision (a) to eliminate the requirement that a deposition be signed by the officer before whom it was taken if the witness fails or refuses to sign it. The requirement, which is inconvenient to comply with if the officer is not readily located, serves no significant purpose, since the officer must in any event rely upon representations or statements of a party or the witness as to the fact that the latter failed or refused to sign the deposition and the reasons therefor.

Rule 3120 (a)

The purpose of the requirement in Rule 3120 that a party designate the items he seeks to inspect should be enable the party served with the notice to determine what items are requested and to enable the court to determine whether the requested items have been produced. *Cf.* 8 Wright & Miller, *Federal Practice and Procedure* §221 at 631. The present requirement that the requested items be "specifically " designated lends itself to a restrictive interpretation under which technical defects may frustrate reasonable discovery request. In addition, a party frequently must conduct a deposition in order to obtain the information enabling him to designate the requested items with the required specificity. *See, e.g., King* v. *Morris*, 57 A.D. 2d 530 (1st Dept. 1977). This result has been justified on the theory that the deposition may be necessary for proper resolution of objections to the discovery request. *Rios* v. *Donovan*, 21 A.D. 2d 409, 413-14 (1st Dept. 1964). The Committee believes that a party who can reasonably identify a requested item or category of items should not need to conduct a deposition in order to establish the existence and specific identities of the requested items. In most instances, the Committee believes, pretrial discovery will be conducted more efficiently and effectively if a party can obtain materials for use in preparing for a deposition. If the party to whom the request is made objects on the ground that it is unduly burdensome, includes materials which are not discoverable, or is improper in some similar respect, the party should state the objections pursuant to Rule 3122 "rather than seeking shelter behind a claim of insufficient designation." 8 Wright & Miller, *supra*, at 634. Subdivision (a) (2) would also be amended to ensure that the party served with a notice has at least twenty days to respond to the discovery request or to prepare to comply with it.

Section 3121 (a)

Subdivision (a) would be amended to ensure that the person to be examined has at least twenty days to respond to the request for examination.

Rule 3122

The amendment of Rule 3122 is intended to reduce the volume of motion practice arising out of discovery by eliminating the requirement that objections to requests for production of documents or other things or for physical or mental examinations be made by motion. The Committee believes that the notice procedure required by the amendment would encourage parties to resolve disputes concerning such requests without court intervention. In the event that a dispute is not so resolved, the party seeking discovery may move for an order compelling discovery pursuant to the proposed new Section 3124.

The proposed amendment to Rule 3122 also would enlarge the time for objecting to a discovery request.

Section 3123 (a)

By disposing of issues which are not a genuine subject of dispute, the request for an admission serves to eliminate unnecessary expenses and complications. The deletion of the clause "at the trial" in the first sentence of subdivision (a) would make it clear that a request for an admission may be used even if the parties contemplate settlement rather than trial or where the issue as to which an admission is sought is one which is relevant to the case but not expected to arise at trial, such as an issue raised by pretrial motions, including motions relating to disclosure. The clause inserted in the first sentence of subdivision (a) is intended to improve the usefulness of requests for an admission by preventing a party from routinely denying a request on the ground of lack of knowledge when the information needed to form a definitive response is available with reasonable effort.

Rule 3124

The text of what is now Rule 3124 would be revised to achieve greater clarity and simplicity and to delete the requirement that a person move for a protective order in order to preserve objections to a discovery request. This should encourage parties to resolve disputes over discovery matters on their own without resort to the Court and should also serve to narrow the scope of motions regarding discovery matters, since ordinarily the motion would be made as a motion to compel discovery after the person from whom discovery was sought had complied with so much of the discovery request as to which no objection was raised.

The reference to the right of a party to obtain local remedies for failure to comply with a discovery request would be deleted as unnecessary; the Committee does not intend to suggest that Section 3124 preempts other applicable law.

Section 3126

The words "failure" and "fails" would be substituted for "refusal" and "refuses" in order to obtain stylistic conformity within Section 3126 and with proposed new Section 3124. The amendment also would make it clear that failure to comply with a court order, even if not willful, may in appropriate circumstances be grounds for imposing one or more of the enumerated sanctions. The substitution of the clause "this article" for "notice duly served" would make it clear that a willful failure to disclose information within the meaning of Section 3126 includes a willful failure to amend or supplement a response to a disclosure request as required under new subdivision (i) of section 3101.

Section 3127

The only practical way of reducing the volume of motion practice over diclosure matters is to require those who are responsible for improper disclosure requests or improper objections to or noncompliance with disclosure requests to compensate their adversaries for the costs and expenses of obtaining appropriate relief from the Court. The purpose of new Section 3127 would be to make the awarding of costs and expenses, including attorney's fees, the rule rather than the exception. The Court would have discretionary power to direct submission of affidavits or to hold a hearing on the amount of attorney's fees to be awarded.

Section 3130

Section 3130 would be amended to delete a clause which, as was noted when it was added in 1979, *see* 3A Weinstein, Korn & Miller N.Y. Civ. Prac. 3130.02, perpetuates an unjustified distinction between negligence and wrongful death actions and other types of actions.

Rule 3132.

The first sentence of Rules 3132 would be deleted as an unnecessary repetition of the first sentence of 3130. The prescriptive period during which a plaintiff may not serve interrogatories upon a defendant would be revised to parallel the amendment of Rule 3106. The amendment would also delete, as an unnecessary formality, the requirement that a defendant obtain leave of court in order to serve interrogatories upon the plaintiff within five days of service of the summons and complaint, and would conform Rule 3132 to Rule 3106 by removing the clause permitting a party to obtain special priority through an *ex parte* motion.

Rule 3133

The amendment of Rule 3133 also would consolidate Rules 3133 and 3134. Paralleling the proposed amendment of Rule 3122, subdivision (a) of Rule 3133 would be amended to eliminate the requirement that an objection to an interrogatory be made by motion. Subdivision (b) of Rule 3133 would be deleted as unnecessary in light of the amendment of subdivision (a).

Rule 3134

Rule 3134 would be deleted since its provisions would be incorporated into the amended Rule 3133.

Section 3140

Section 3140 would be amended to correct a misspelling in the caption and to clarify that the responsibility for making procedural rules governing the exchange of appraisal reports is vested in the Chief Administrator of the Courts in conformity with Judiciary Law, section 212 (2) (d). This amendment also is in furtherance of one of the purposes of this measure, the assurance of greater statewide uniformity in respect to disclosure procedures.

Part III - Miscellaneous Recommendations*

1. CPLR 308, 3215 (e), (f).

The Committee recommends the repeal of the unnumbered last paragraph of CPLR 308, which in certain actions requires, pursuant to the prescribed procedure, giving additional notice before default judgment is taken. The Committee further recommends the transfer of that provision, clarified and improved, into CPLR 3215.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to additional notice of default judgment in an action arising out of a consumer credit transaction and to repeal certain provisions thereof relating thereto.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The last unnumbered paragraph of section three hundred eight of the civil practice law and rules is REPEALED.

§2. Subdivision (e) of section thirty-two hundred fifteen of such law and rules, as amended by chapter three hundred forty-four of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(e) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the compliant, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316, and proof by affidavit made by the party of the facts constituting the claim, the default and the amount due. Where a verified complaint has been served it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or his attorney. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing the notice required by [section three hundred eight of the civil practice law and rules] *subdivision (f), where applicable,* shall also be filed where such notice is required].

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* NOTE : Contained herein are only those additional ammendments initiated by the Committee, or acted upon by the Committee after outside request. Committee input lies behind other bills usually in a consultative capacity.

§3. Subdivision (f) of section thirty-two hundred fifteen of such law and rules, as amended by chapter seven hundred twenty of the laws of nineteen hundred sixty-eight, is amended by adding a new paragraph three to read as follows:

3. (i) When a default judgment based upon non-appearance is sought against a natural person in an action arising out of a consumer credit transaction, as defined in subdivision (f) of section 105, an affidavit shall be submitted that additional notice has been given by or on behalf of the plaintiff at least twenty days before the entry of such judgment, by mailing a copy of the summons by first-class mail to the defendant at his place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from an attorney or concerns an alleged debt. In the event such mailing is returned as undeliverable by the post office before the entry of a default judgment, or if the place of residence of the defendant is unknown, a copy of the summons shall then be mailed in the same manner to the defendant at the defendant's place of employment if known; if neither the place of residence or the place of employment of the defendant is known, then the mailing shall be to the defendant at his last known residence.

(ii) The additional notice may be mailed simultaneously with or after service of the summons on the defendant. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, failure of the defendant to receive the additional notice shall not preclude the entry of default judgment.

(iii) This requirement shall not apply to cases in the small claims part of any court or to any summary proceeding to recover possession of real property or to actions affecting title to real property.

§4. This action shall take effect on the first day of January next succeeding the date on which it shall have become a law.

REPEAL NOTE: The last undesignated paragraph of CPLR 308, to be repealed by this bill, relates to the additional notice required to take a default judgment in an action against a natural person based upon nonpayment of a contractual obligation. New proposed paragraph 3 of subdivision (f) of CPLR 3215 governs the additional notice requirement in consumer credit transactions, and supersedes the repealed provisions.

Comment

This proposal would clarify, improve and relocate the CPLR provisions which mandate that a notice of default judgment, in addition to that contained in a summons, be served on a defendant who is a natural person in an action arising out of a consumer credit transaction.

The proposal would repeal the unnumbered last paragraph of CPLR 308 and transfer its contents to CPLR 3215 (f) as a paragraph 3. Since the purpose of this provision is solely to assure that an additional notice will be given to the defendant before a default judgment may be taken, the proper place for it is in the default judgment provision, CPLR 3215.

The proposal does not alter in any essential aspect the protection against sewer service which the present law, enacted by Chapter 344 of the Laws of 1977, provides.

The language of the 1977 legislation, although salutary in intent, has given rise to technical problems. This procedure would be improved by the recommended changes, as follows:

1. The application of the provisions to actions for nonpayment of a contractual obligation would be changed to those arising out of a consumer credit transaction. This change is consistent with the purpose of the provision to protect against sewer service, which is rare in contract actions except those arising from consumer credit transactions.

2. Actions affecting title to real property would be excepted. Title companies are justly apprehensive that, in such actions, the requirement to give additional notice could be troublesome in that inadvertent failure to do so allows vacatur of the default judgment, thus generating challenges to title many years after entry of judgment.

3. In conformance with general practice, provision would be made for service of the additional notice by the employee of an attorney, as well as by the party or his attorney, as at present.

4. It would be clear that the additional notice may be mailed out not only after, but also simultaneously with service of process.

5. Where there has been compliance with the additional notice requirements, failure of the defendant to receive such notice shall not preclude entry of, or invalidate, the default judgment. Without this provision, the plaintiff would be penalized unfairly by being prevented from obtaining a judgment where it is impossible to serve the additional notice on the defendant.

The proposal was submitted in 1979, 1980, 1981, 1982 and 1983. Last minute language changes in 1979 (re-embodied in the 1980 draft) resulted in a delay in 1979, and in 1980 the amendment, along with several other procedural changes, was not reached on legislative dockets. In 1981, the bill passed the Assembly but not the Senate, and in 1982 and 1983 it passed the Senate but not the Assembly. No policy objections to the bill have been made known to the Advisory Committee on Civil Practice.

2. CPLR 1007, 1009 (new proposal)

The Committee recommends the amendment of CPLR 1007 and CPLR 1009 to make more specific the time frames and other details governing third party practice to assure that plaintiff has adequate time to amend his complaint without leave of court to assert any claim he may have against the third-party-defendant.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to service of papers in third party practice.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section ten hundred seven of the civil practice law and rules, as amended by chapter three hundred fifteen of the laws of nineteen hundred sixty-two, is hereby amended to read as follows:

Section 1007. When third-party practice allowed. After service of his answer, a defendant may proceed against a person not a party who is or may be liable to him for all or part of the plaintiff's claim against him, by serving upon such person a summons and third-party complaint and all prior pleadings served in the action. A defendant serving a third party complaint shall be styled a third party plaintiff and the person so served shall be styled a third-party defendant. The defendant shall also serve a copy of such third party complaint upon the plaintiff's attorney *simultaneously upon issuance for service of the third-party complaint on the third-party defendant.*

§2. Rule ten hundred nine of such law and rules, as amended by Judicial Conference proposal number two of nineteen hundred seventy-two, is hereby amended to read as follows:

Rule 1009. Claim by plaintiff against third party defendant. Within twenty days after service of *the answer to* the third-party complaint *upon plaintiff's attorney*, the plaintiff may amend his complaint without leave of court to assert against the third-party defendant any claim [he] *plaintiff* has against the third-party defendant.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

CPLR 1007 and 1009 relate to the procedures of third-party practice, whereby, after defendant's service of the third-party complaint, the plaintiff may amend his or her complaint to assert any claim the plaintiff may have against the third-party defendant. The existing provisions are imprecise in specifying the time frames and other details on the procedure by which the plaintiff may proceed, with full knowledge of all pleadings and without leave of court, to assert any claim he or she may have against the third-party defendant.

Therefore, the sentence of CPLR 1007 providing for service by defendant of a copy of the third-party complaint on plaintiff's attorney would be amended to provide that such service be made simultaneously upon issuance for service of the third-party complaint upon the third-party defendant. CPLR 1009 would be amended to provide that service of the answer to the third-party complaint upon plaintiff's attorney commences the 20-day period within which the plaintiff may properly amend the complaint without leave of court to assert any claim the plaintiff may have against the third-party defendant.

The clarification of these technical niceties of timeliness and service of pleadings is crucial to the preservation of plaintiff's right to amend as of right his complaint so as to assert against the third-party defendant any claim which all relevant pleadings may give rise to.

These changes are not intended to affect existing or evolving decisional law with regard to whether or not the plaintiff's cause of action against the third-party defendant is barred by an applicable statute of limitations.

This proposal is based upon recommendations made to the Advisory Committee by the Association of Justices of the Supreme Court.

3. CPLR 2306 (a) (new proposal)

The Committee recommends the amendment of CPLR 2306 (a) to specify that a reproduction of an institutional record under subpoena must be in the form of a full-sized legible copy and, further, in order to allow time for preparation, the Committee recommends an appropriate extension of the time provided after service of the notice to produce.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to reproduction of hospital record.

The People of the State of New York represented in

Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section twenty-three hundred six of the civil practice law and rules is hereby amended to read as follows:

(a) Transcript or reproduction. Where a subpoena duces tecum is served upon a hospital, or upon a department or bureau of a municipal corporation or of the state, or an officer thereof, requiring the production of records relating to the condition or treatment of a patient, a transcript or *a full-sized legible reproduction*, certified as correct by a superintendent or head of the hospital, department or bureau or his assistant, or the officer, may be produced unless otherwise ordered by a court. Such a subpoena shall be served at least [twenty-four hours] *three days* before the time fixed for the production of the records unless otherwise ordered by a court.

Section 2. This act shall take effect on the first day of January next succeeding the day on which it shall have become a law.

Comment

The proposed amendment is designed to prevent the production, under subpoena, by a private or public institution, of a copy of an original record which, because of the copy's reduced size or illegibility, cannot be used for its intended purpose. The only alternative the present provision offers is the production of a transcript which, if possible, may entail undesirable time or expense. The recommended amendment, by specifying that the reproduction must be a full-sized legible copy of the original record, ensures that the reproduction can be readily utilized.

In order to allow for the relative increase in time in the preparation of such a reproduction, the bill would lengthen the time period for complying with the notice to produce, at present fixed at twenty-four hours, to three days, a reasonable adjustment.

4. CPLR 3041, 3042 (S. 4233)

The Committee recommends the amendment of CPLR 3041 and CPLR 3042 to streamline bill of particulars practice, delayed at present by proliferating motions and other widespread abuses which the proposals are designed to eliminate.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to bill of particulars.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty hundred forty-one of the civil practice law and rules is amended to read as follows:

Section 3041. Bill of particulars in any case. Any party may require any other party to give a bill of particulars of [his] *such party's* claim, or a copy of the items of the account alleged in a pleading. *As used in this article, the term "bill of particulars" shall include "copy of the items of an account" wherever appropriate.*

Section 2. Rule thirty hundred forty-two of such law and rules, as separately amended by chapters two hundred ninety-six and two hundred ninety-seven of the laws of nineteen hundred seventy-eight, is amended to read as follows:

Rule 3042. Procedure for bill of particulars. (a) [Notice] *Demand.* a [request] *demand* for a bill of particulars [or a copy of the items of an account] shall be made by serving a written [notice] *demand* stating the items concerning which [such] *the* particulars are desired. [If the party upon whom such notice is served is unwilling to give such particulars, in whole or in part, he may] *The party served with the demand, within thirty days of the service thereof, shall serve a bill of particulars complying with the demand, or* move to vacate or modify [such notice within ten days after receipt thereof. The notice or supporting papers shall specify clearly] *the demand, specifying* the objections and the grounds therefor. [If no such motion is made, the bill of particulars shall be served within ten days after the demand therefor, unless the court shall otherwise direct]. *A party moving to modify the demand shall attach to the moving papers a copy of the proposed bill, complying with the items not objected to.*

(b) Motion. Instead of proceeding by demand, [the] *a* party may move for a bill of particulars [, or copy of the items of account] in the first instance.

(c) Preclusion for failure to supply bill. [In the event that] *If* a party fails *timely* to furnish a bill of particulars [, or copy of the items of an account the court, upon notice, may preclude him from giving evidence at the trial of the items for which particulars have not been delivered] *or to move to vacate or modify the demand, the demanding party may serve a written notice of preclusion by personal delivery or by registered or certified mail requesting that the demand be complied with within thirty days after service of the notice. The notice shall refer to this rule and shall state that if the party fails to comply therewith the party shall be automatically precluded without an application to the court. If the party served with the notice fails, within thirty days after service thereof, to furnish a bill, the party shall be precluded from giving evidence at trial of the particulars not furnished.*

(d) Relief from automatic preclusion. A party precluded

under subdivision (c) of this rule may move to vacate the default within sixty days after service of the notice of preclusion, upon a showing of justifiable excuse for the default, and submission of an affidavit of merits and the proposed bill.

[(d)] *(e)* Preclusion for a defective bill. Where a bill [of particulars, or copy of the items of an account,] is [regarded as] defective or insufficient [by the party upon whom it is served], the court, upon [notice] motion, may [make an] order [of] preclusion or [directing] *direct* the service of a further bill. In the absence of special circumstances, a motion for such relief shall be made within [ten] *thirty* days after [the] receipt of the bill claimed to be *defective or* insufficient.

[(e) conditional order of preclusion. A preclusion order may provide that it will be effective unless a prior bill is served within a specified time.]

[(f) Affidavits. Affidavits to be used in support of or in opposition to a motion under this rule may be made by a party or his attorney.]

[(g)] *(f)* Amendment. In any action or proceeding in a court in which a note of issue is required to be filed, a party may amend [his] *the* bill of particulars once as of course [before trial,] prior to the filing of a note of issue.

[(f)] *(g)* Costs. Upon any motion, except under subdivision (b), costs may be imposed.

Section 3. This act shall take effect on the first day of January next succeeding the date on which it shall have become law.

Comment

The proposed amendment of CPLR 3041 and CPLR 3042 is designed to save the time of courts and litigants, to curtail pronounced and widespread abuses which have arisen under present law, and otherwise to improve this extensively used tool. The Committee was aided in its endeavors by the Honorable William P. McCooe, Justice of the Supreme Court, who, as consultant to the Committee on this project, helped prepare the original draft, and assisted the Committee in reaching a final proposal.

Under the present provisions of CPLR, many attorneys serve a bill of particulars only after being served with a conditional order of preclusion. Initial requests for bills of particulars routinely are ignored. Some attorneys routinely serve demands that are so prolix and burdensome as to effectively harass opponents. Still other attorneys routinely serve patently defective bills.

The courts are inundated with motions to preclude for failure timely to serve bills of particulars, and with motions relating to disclosure generally. During 1980, for example, Special Term, Part I-A, of the Supreme Court in New York County, processed 25,242 motions relating to bills of particulars, disclosure, and statements of readiness. Motions relating to bills of particulars are adjourned frequently, and the final determination is generally a conditional order of preclusion which may or may not be obeyed. This practice wastes judicial resources and burdens litigants.

The language of CPLR 3042 is streamlined by making a minor amendment to CPLR 3041. "Bill of particulars" is defined to include "items of an account or a copy thereof," thus eliminating the need for numerous references in CPLR 3042 to items of an account.

The following are contained in CPLR 3042:

Subdivision (a) of CPLR 3042 would be amended to establish as a general rule that a party served with a demand for a bill of particulars, within thirty days after service of the demand, must serve a bill of particulars complying with the demand, or move to vacate or modify the demand, specifying the objections and the ground therefor. A party moving to modify the demand would be required to attach to the moving papers a copy of the proposed bill, complying with the items to which there is no objection. If the party served takes no action within the prescribed time, the demanding party would be authorized to put the defaulting party on written notice that the bill has not been served and that an automatic preclusion will take effect thirty days after service of the notice if the bill is not received. The written notice must be served by personal delivery or by registered or certified mail. Additionally, the notice is required to refer to this Rule so that the defaulting party may be alerted to the statutory sanction for default in serving the bill.

This notice and automatic preclusion procedure, which is provided for in amended subdivision (c), and is new, is the principal difference between the proposed Rule 3042 and present Rule 3042.

A party who is unable to comply with the demand should move in a timely manner under subdivision (a) to prevent the imposition of any sanction. A party would not be permitted to move to vacate or modify a demand after receipt of the preclusion notice but may move to vacate the default within 60 days after service of the notice of preclusion. Such relief could be afforded only upon a showing of justifiable excuse for the default, the submission of an affidavit of merits and the proposed bill of particulars. Relief from automatic preclusion would be governed by a new subdivision (d).

Subdivision (b), which allows a party seeking a bill of particulars to proceed by motion instead of demand, is retained, although it seldom is utilized. There are some circumstances in which proceeding initially by motion is appropriate.

Present subdivision (d) governing preclusion for a defective bill is retained with some revision as new subdivision (e).

Present subdivision (e), governing the conditional order of preclusion, is deleted since that procedure is superseded by this revision. Present subdivision (f), governing affidavits, is eliminated as unnecessary because general rules governing motions and affidavits are adequate and because an affidavit of merits, to be required by new subdivision (d), should be made by a party, not an attorney.

Present subdivision (g) (amendment) would be redesignated as new subdivision (f) and slightly reworded for the sake of clarification.

Present subdivision (g) (costs) would be redesignated as new subdivision (f).

Nothing in the revision of this Rule precludes parties or their attorneys from extending by written stipulation the time for serving any notice, motion or bill of particulars.

The extension of time to 30 days for complying with a demand, together with the potential for sanctions, should substantially reduce the number of motions required in respect to bills of particulars, and significantly improve the administration of justice.

Revision of Rule 3042 also provides an opportunity to make minor grammatical and technical changes in the wording of various provisions. These changes are not intended to have any substantive effect.

5. CPLR 3222 (b) (1), 6001 (S. 5116; A. 6158)

The Committee recommends the amendment of CPLR 3222 (b) (1) and CPLR 6001 to strike obsolete references to civil arrest, since Chapter 409 of the Laws of 1979 abolished that provisional remedy.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to civil arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph one of subdivision (b) of rule thirty-two hundred twenty-two of the civil practice law and rules is amended to read as follows:

1. an order of [arrest or] attachment or a preliminary injunction shall not be granted;

§2. Section sixty hundred one of such law and rules is amended to read as follows:

§6001. Kinds of provisional remedies; when remedy available to defendant.

The provisional remedies are [arrest,] attachment, injunction, receivership and notice of pendency. On a motion for a provisional remedy, the plaintiff shall state whether any other provisional remedy has been secured or sought in the same action against the same defendant, and the court may require the plaintiff to elect between those remedies to which he would otherwise be entitled; for this purpose, seizure of a chattel in an action to recover a chattel is a provisional remedy. A cause of action contained in a counterclaim or a cross-claim, and a judgment demanded thereon, shall entitle the defendant to the same provisional remedies to which he would be entitled if he were the plaintiff, the party against whom the judgment is demanded were the defendant and the cause of action were contained in a complaint.

§3. This act shall take effect immediately.

Comment

The Legislature abolished the provisional remedy of civil arrest in 1979 by repealing Article 61 of the CPLR. The amendments of CPLR 3222 (b) (1) and CPLR 6001 are proposed merely to conform these sections to reflect the 1979 repeal of the provisional remedy of civil arrest. CPLR 3222 (b) (1), governing the submission on agreed facts (a procedure which dispenses with summons service and other adversary proceedings), makes certain provisional remedies unavailable. Arrest was among them, but since arrest no linger exists as a remedy, the reference to it should be eliminated.

CPLR 6001 lists the official provisional remedies. It still refers to arrest. The amendment would strike the reference.

6. CPLR 5250 (S. 5115; A. 6248).

The Committee recommends the repeal of CPLR 5250 in order to terminate the availability of civil arrest as an adjunct in the enforcement of money judgments, thereby harmonizing the statute with Chapter 409 of the Laws of 1979, which abolished the analogous provisional remedy.
relation to repeal to repeal of section fifty-two hundred fifty thereof, relating to civil arrest

Recommendation

AN ACT

To amend the civil practice law and rules in relation to repeal of section fifty-two hundred fifty thereof, relating to civil arrest

The People of the State of New York, represented in

Senate and Assembly, do enact as follows:

Section 1. Section fifty-two hundred fifty of the civil practice law and rules is REPEALED.

§2. This act shall take effect immediately.

REPEAL NOTE: CPLR 5250, proposed to be repealed by this act, related to the civil arrest of judgment debtors.

Comment

This proposal would repeal section 5250 of the CPLR to abolish the remedy of civil arrest in connection with the enforcement of money judgments. Since the remedy of civil arrest in connection with the enforcement of money judgments, provided for by CPLR 5250, is analogous to the provisional remedy of civil arrest abolished by Chapter 409 of the Laws of 1979, similar policy considerations militate towards its abolition. In addition, repeal of CPLR 5250 would have a negligible impact c civil practice in this state, since the arrest which it authorizes is infrequently sought and rarely, if ever, granted. Finally, the Advisory Committee on Civil Practice believes that the provision is of doubtful constitutionality. See *Deary* v. *Guardian Loan Co., Inc.*, 534 F. Supp.. 1178 (S.D.N.Y. 1982).

7. CPLR 6313 (a) (S. 4172; A. 5869).

The Committee recommends that CPLR 6313 (a) be amended to regularize the giving of notice, if only informal, on an application for a temporary restraining order, except upon dispensation of the court for a compelling reason, which must be recited in the order.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to notice of motion for a temporary restraining order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section sixty-three hundred thirteen of the civil practice law and rules, as amended by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, is amended to read as follows:

Generally. If, on motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. *If the circumstances are such that notice, even if only by telephone or other informal means, is practicable and would not defeat the purpose of the order, the court shall direct that it be given; and if the court finds otherwise, it shall state in the order the reasons for dispensing with notice.* Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee was asked to encourage judges to require notice of a temporary restraining order (TRO) in instances where it is feasible to give notice. The matter came before the Committee in 1979 but was put over until 1980 to obtain the advice and experience of a broad sampling of Supreme Court justices. (Since the TRO involves equity jurisdiction, it is almost exclusively a product of Supreme Court practice.)

To obtain this sampling, the matter was placed on the agenda of the 1979 annual meeting of the state's trial judges, then known as the "Crotonville Conference," where the judges related a range of experiences with the TRO.

The primary aim of the TRO is to retain the status quo while an application is brought on for a preliminary injunction. While that injunction (if granted) covers the whole pendency of the action until final judgment, the TRO covers only the period for bringing on the preliminary injunction hearing. Each instance of an application for a TRO is therefore one in which — at least to hear the applicant (assume it is the plaintiff) tell it — the urgency is too great to admit of any notice at all to the other side (assume it is the defendant). The experience of a majority of the judges suggests that while there is occasionally a showing of an exigency sufficient to dispense with notice of the TRO, however informal, would not prejudice the applicant in any way. The Committee is of the view that if the giving of notice is feasible and appropriate., then as a matter of policy it should be given.

The amendment of CPLR 6343 therefore provides that if the giving of notice is practicable, it should be ordered. The court can require the giving of notice in whatever form it chooses. It is common among a number of judges now, for example, even under the present version of CPLR 6313, to require the applicant to give telephone notice to the other side, the judge often permitting his own phone in chambers to be used for the purpose.

There certainly are situations where the giving of notice would be undesirable. For example, where there is a significant chance that the other side, upon being notified of the TRO application, will forthwith do the very thing the whole procedure is designed to prevent, (immediately removing from the state a chattel which is at the crux of the action), notice should not be directed. The court must be convinced that the acts described are not just in the applicant's imagination.....but are a real possibility, before dispensing with notice, and it will of course be incumbent on the applicant to convince the court in affidavits accompanying the initial application for the TRO (whose usual context is an order to show cause, bringing on the preliminary injunction application).

If for any reason notice of the TRO is dispensed with, the court under this amendment must state on the face of the TRO "the reasons for dispensing with notice." It is the Committee's hope that it will become a matter of routine practice to give notice of a TRO and that dispensing with notice will become the exception.

8. CPLR 7502 (c) (S. 5014)

The Committee proposes to add subdivision (c) to CPLR 7502 to authorize the court to allow use of the provisional remedies of attachment and preliminary injunction in arbitration.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to use of provisional remedies in arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred two of the civil practice law and rules is hereby amended to read as follows:

§7502. Applications to the Court; venue; statutes of limitation; *provisional remedies.*

(a) Applications to the court; venue. A special proceeding shall be used to bring before a court the first application arising out of an arbitration controversy which is not made by motion in a pending action. The proceeding shall be brought in the court and county specified in the agreement; or, if none be specified, in a court in the county in which one of the parties resides or is doing business, or, if there is no such county, in a court in any county; or in a court in the county in which the arbitration was held. All subsequent applications shall be made by motion in the pending action of the special proceeding.

(b) Limitation of time. If, at the time that a demand for arbitration was made or a notice of intention to arbitrate was served, the claim sought to be arbitrated would have been barred by limitation of time had it been asserted in a court of the state, a party may assert the limitation as a bar to the arbitration on an application to the court as provided in section 7503 or subdivision (b) of section 7511. The failure to assert such bar by such application shall not preclude its assertion before the arbitrators, who may, in their sole discretion, apply or not apply the bar. Except as provided in subdivision (b) of section 7511, such exercise of discretion by the arbitrators shall not be subject to review by a court on an application to confirm, vacate or modify the award.

(c) Provisional remedies. The supreme court in the county in which an arbitration is pending, or, if not yet commenced, in a county specified in subdivision (a), may entertain an application for an order of attachment or for a preliminary injunction in connection with an arbitrable controversy, but only upon the ground that the award to which the applicant may be entitled may be rendered ineffectual without such provisional relief. The provisions of articles 62 and 63 of this act shall apply to the application, including those relating to undertakings and to the time for commencement of an action (arbitration shall be deemed an action for this purpose) if the application is made before commencement, except that the sole ground for the granting of the remedy shall be as stated above. The form of the application shall be as provided in subdivision (a).

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The need often arises to protect the status quo while an arbitration is pending, just as it does when a litigation is pending. The availability of provisional remedies in conjunction with an arbitration has been a source of dispute under the CPLR, where arbitration is not considered a "special proceeding". Under the civil Practice Act (§1459), which the CPLR superseded in 1963, an arbitration was treated as a special proceeding and, thus, there was less difficulty in permitting the use of provisional remedies in connection with arbitration.

The Committee has been considering a proposal to authorize the court to entertain applications for the remedies of attachment (CPLR Article 62) and preliminary injunction (Article 63) when shown to be needed to preserve the efficacy of a potential arbitral award. The time seems ripe to present this proposal to the Legislature. A recent report by the Subcommittee on Provisional Remedies of the Committee on Arbitration of the Association of the Bar of the City of New York includes a survey of the area and recommends legislation to permit use of provisional remedies in arbitration proceedings.

The only provisional remedies made available by this proposal are attachment and preliminary injunction (which would of course include the temporary restraining order). Receivership (Article 64) and lis pendens (Article 65) would not be available in connection with an arbitration. The sole ground for the grant of either an attachment or preliminary injunction, moreover, is that the award the applicant is seeking in arbitration "may be rendered ineffectual" without such relief.

The application for the authorized provisional remedies would be made to the Supreme Court. If the arbitration is pending when the application is made, it is made in the county of the arbitrations's pendency. If the arbitration has not yet been commenced, the application would be made in a county specified in the existing subdivision (a) of CPLR 7502.

When an attachment is sought before an action is commenced, there is a requirement that the action be commenced within 60 days after the attachment is granted (CPLR 6213). The same requirement would apply to the commencement of the arbitration if the granting of the attachment precedes it. Also retained are the bonding requirements of Articles 62 and 63, so that a party obtaining the remedy in conjunction with an arbitration would not be relieved of any liabilities that might apply in a litigated case.

The Advisory Committee notes that there is no inconsistency between the proposed amendment and the recent decision of the Court of Appeals in *Cooper* v. *Ataliers de la Motobecane*, S.A., 57 N.Y. 2d 408 (1982), where a pre-arbitration attachment was disallowed in a matter involving international litigants governed by the United Nations Convention in Recognition and Enforcement of Foreign Arbitral Awards. The amendment would not affect proceedings governed by such international agreements. Moreover, the amendment, by providing the preliminary relief of attachment or injunction *only* if the arbitration award might otherwise be rendered ineffectual, is designed to make the domestic arbitration remedy more efficacious, and therefore, in the Committee's view, accords with the spirit of the *Cooper* decision.

Background and case illustrations which support the necessity for this amendment may be found in the cited report of the Subcommittee of the Association of the Bar's Arbitration Committee.

9.CPLR 7503 (d) (S. 4211; A. 5903).

The Committee recommends the enactment of CPLR 7503 (d) to direct that the trial of issues of fact arising on an application to compel or stay an arbitration be without a jury.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the trial of issues of fact in respect to arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred three of the civil practice law and rules, as amended by chapter three hundred eighty-eight of the laws of nineteen hundred sixty-four, is amended by adding thereto a new subdivision, to be subdivision (d), to read as follows:

(d) Issues of fact. Issues of fact arising on an application under this section shall be tried by the court without a jury.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee makes this recommendation unanimously, but with decidedly mixed emotions.

The purpose of arbitration is to facilitate dispute resolution. It is not consistent with that purpose to permit one party to an ostensibly arbitrable dispute to delay the arbitral process by interposing objections to arbitration and then, if issues of fact are presented about whether an agreement to arbitrate was made, to insist that they be tried by jury. Additionally, of course, there is the factor of the over-burdened calendars of the courts, which are hardly helped by having to impanel juries to determine arbitrability questions. The Committee has often been asked to recommend a statute that would dispense with trial by jury of such issues.

The problem is one of constitutionality. Some of the Committee have serious reservations about whether a statute can dispense with a jury in trying such issues. They reason that if, absent any commitment to arbitrate, an ordinary action involving the dispute would be triable by jury (i.e. an action for money only), a genuine issue as to whether the dispute is to be taken away from the courts would also require a jury trial. Under this reasoning an arbitrability issue would be just such an issue.

An opposing view is that if a party has affixed his signature to an agreement containing an arbitration clause, he has established a sufficient link with an obligation to arbitrate to permit trial of the issue by the court without a jury.

An amendment of the state constitution to dispense expressly with trial by jury in such instances would be the best method of resolving this problem. But the amendment process is a cumbersome one. The committee takes the position that the matter should not be pressed to the constitutional-amendment point until the Court of Appeals has at least had a chance to address the issue whether, under present law, the arbitrability question is triable by jury. While statute dispensing with trial by jury of the question is not indispenable to set up a court test, it would surely be helpful. Hence, the Committee recommends the adoption of CPLR 7503(d), dispensing with trial by jury of the threshold question of arbitrability and other issues of fact and permitting these questions to be heard and resolved by the court.

Because of the Committee's reservations about constitutionality, a report addressed to the subject was undertaken by a Yale law student under the direction of Professor Geoffrey C. Hazard, Jr. The report, which appears at page 314 of the Judicial Conference's 1978 Annual Report, concludes that the Constitution does not bar the Legislature from requiring that trial of the arbitrability issue be by the court without a jury. The matter remains in doubt, and its submission to the courts is deemed the most appropriate step.

If the courts determine that trial by jury is required, and set CPLR 7503 (d) aside as unconstitutional, the Committee will have performed what it considers to be its duty to help set the stage for the test.

10. CPLR 7804 (g) (S. 3460; A. 5902).

The Committee recommends that CPLR 7804 (g) be amended to make it clear that only those issues in point of law which could terminate the case shall be decided by Special Term before the case can be transferred, when not dismissed, to the Appellate Division for consideration of the substantial evidence question.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the hearing and determination of article 78 proceedings

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (g) of section seventy-eight hundred four of the civil practice law and rules is amended to read as follows:

(g) Hearing and determination; transfer to appellate division. Where [an] *the substantial evidence* issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall *first dispose of such other objections as could terminate the proceeding without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceedings, the court shall* make an order directing that [the proceeding] *it* be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced [; the court may, however, itself pass on objections in point of law]. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

CPLR 7804 (g), which requires that an Article 78 proceeding involving the substantial evidence review criterion be transferred by the Supreme Court, where the proceeding is begun, to the Appellate Division, provides also that the Supreme Court "may...itself pass on objections in point of law" before making the transfer. Just what questions are to be passed upon under this ambiguous criterion has been a subject of disagreement.

One of the soundest conclusions concerning the meaning of the phrase is that the Supreme Court should pass only on those objections that have the potential for terminating the case without reaching the substantial evidence question, *i.e.*, objections that can dismiss the action and thus obviate a transfer. In 1979 the matter was discussed at the annual Crotonville Conference of Trial Judges and the judges agreed with the above conclusion.

Accordingly, the Committee recommends that Special Term pass only on those objections that can result in dismissal, *i.e.*, lack of jurisdiction, statute of limitations, and res judicata. If any such defense succeeds, the case would be dismissed and a transfer (and a reaching of the substantial evidence issue) would be unnecessary. If the defense fails, the case can then be transferred for determination of the substantial evidence issue by the Appellate Division, along with such other objections as did not have the potential for terminating the case, *e.g.*, questions of admissibility of evidence by the agency, the following of proper administrative procedure, etc.

An alternative that the Committee rejected was the repeal of CPLR 7804 (g), so that the Supreme Court would determine the substantial evidence question and the Appellate Division would review the question, if at all, only as part of an ordinary appeal. Since the substantial evidence rule is an adjunct of the old writ of certiorari, which applied only when it was sought to review a determination following a full-fledged "quasi-judicial" hearing (what the State Administrative Procedure Act denominates an "adjudicatory proceeding"), and since this phase of Article 78 carries forth that function, the procedure of leaving initial judicial review of the substantial evidence question to the Appellate Division should be retained. The premise underlying this procedure is that there has already been a plenary hearing before the agency, giving rise to a full record, and that a "substantial evidence" review of that record should go only to an appellate-level court. The Committee is of the view that the reason for "filtering" it through nisi prius, as CPLR 7804 (g) does, is only to enable that court to determine other issues that may be raised and that can obviate disposition of the substantial evidence issue.

11. CPLR 8001 (a) (S. 4178; A. 6323).

The Committee recommends that CPLR 8001 (a) be amended to raise the daily fee for a subpoenaed witness from $2.00 to $15.00, and the mileage fee payable to him from .08 to .23 cents, owing to the increased level of inflation.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to fees of witnesses

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section eighty hundred one of the civil practice law and rules, is amended to read as follows:

(a) Persons subpoenaed. Any person [whom] *whose* attendance is compelled by a subpoena, whether or not actual testimony is taken, shall receive for each day's attendance [two] *fifteen* dollars for attendance fees and [eight] *twenty-three* cents as travel expenses for each mile to the place of attendance from the place where he was served, and return. There shall be no mileage fee for travel wholly within a city.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This amendment is a measure that takes cognizance of inflation, and in the Committee's judgment a modest one. The witness fee of $2 has for many years been inadequate. The figure of $15 is at least a small step toward more realistic fees. Travel expenses have increased beyond the eight-to-23 cent jump here proposed, and this is true regardless of the mode of transportation used. The provision that dispenses with the mileage item when the travel is entirely within a city is not affected. The theory behind that exception is that public transportation is available at a modest charge, but that proposition will also bear monitoring in the future.

The increase being adopted here for the trial subpoena also will apply to the pretrial deposition subpoena. An additional $3 remains applicable to that subpoena under subdivision (b) of CPLR 8001.

A recommendation that small claims actions be exempted from the witness fee provisions is under study by the Advisory Committee and may be the subject of future proposals.

Through the adoptive provision of §610.50 of the Criminal Procedure Law, these increases in fees and mileage would apply in criminal as well as civil actions.

12. CPLR 8201-8204 (S. 6544; A. 5773).

The Committee recommends the amendment of the four provisions governing court costs, to upgrade the amounts and to provide for uniform statewide application thereof in order to reduce the gap occasioned by inflation.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to amount of costs in an action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two hundred one of the civil practice law and rules, as amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8201. Amount of costs in an action. Costs awarded in an action shall be in the amount of:

1. [fifty] *two hundred* dollars [in the counties within the city of New York and twenty-five dollars in all other counties,] for all proceedings before a note of issue is filed; plus

2. [one] *two* hundred dollars [in the counties within the city of New York, and fifty dollars in all other counties,] for all proceedings after a note of issue is filed and before trial; plus

3. [one] *three* hundred [fifty] dollars [in the counties within the city of New York, and seventy-five dollars in all other counties,] for each trial, inquest or assessment of damages.

§2. Section eighty-two hundred two of such law and rules, as amended by chapter seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8204. Amount of costs on motion. Costs awarded on a motion shall be in an amount fixed by the court, not exceeding [forty] *one hundred* dollars [in counties within the city of New York, and twenty dollars in all other counties].

§3. Subdivision (a) of section eighty-two hundred three of the law and rules, as so designated by chapter three hundred ninety-one of the laws of nineteen hundred seventy-two, and as amended by chapter seven hundred thirty-five of nineteen hundred seventy-two, is amended to read as follows:

(a) Unless the court awards a lesser amount, costs awarded on an appeal to the appellate division shall be in the amount of [: 1. twenty-five dollars for all proceedings before argument; plus 2. fifty dollars for argument] *two hundred fifty dollars.*

§4. Section eighty-two hundred four of such law and rules, as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8204. Amount of costs on appeal of court of appeals. Unless the court awards a lesser amount, costs awarded on an appeal to the court of appeals shall be in the amount of [: 1. fifty dollars for all proceedings before argument; plus 2. seventy-five dollars for argument] *five hundred dollars.*

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law; provided, however, that its provisions shall apply only to bills of costs entered on or after such date, regardless of when the claim accrued or the action was commenced.

Comment

What few adjustments have been made in the CPLR costs provisions have been infrequent and small. Costs have never been commensurate with the actual expense of litigating in action, but as the dollars has declined in value at an accelerated pace over recent years, the amounts provided have perhaps lost what little significance they had.

The Committee proposes to make an across the board increase in the amount of costs awardable for the various stages of an action (CPLR 8201), for a motion (CPLR 8202) and for appeals to the Appellate Division (CPLR 8203 (a)) and the Court of Appeals (CPLR 8204).

With respect to costs awardable in an action, a distinction is presently made between New York City and elsewhere. The costs are awardable in stages under CPLR 8201, but the sums awardable in New York City counties are double those awardable in the other 57 counties. The proposal removes this distinction, so that the sums suggested would apply in all counties.

Costs awardable for proceedings before the filing of a note of issue are at present $50 in New York City and $25 elsewhere. The amendment of CPLR 8201 (1) would change this amount to a uniform $200. While this may appear at first blush to be a disproportionate increase, in reality it is not, because the pre-note of issue segment of a case has until recent years involved little preparation. The practice was to file the note of issue early in the case, before the trouble and expense of disclosure and other pretrial proceedings were undertaken. In the present era of the certificate of readiness, however, which must accompany the note of issue, this first stage has become a busy and expensive one. This fact has never been recognized in a costs adjustment.

The second stage of litigation, which covers the period after the filing of the note of issue but before an actual trial, at present involves costs of $100 in New York City and $50 elsewhere; a uniform $200 is substituted for statewide application under the proposed amendment of CPLR 8201 (2). Steps one and two in litigation will now each carry costs of $200.

The trial itself, should the case proceed that far, involves costs of $150 in New York City and $75 elsewhere at present. The proposed amendment of CPLR 8201 (3) substitutes a uniform $300 for this step statewide.

Under these proposals, should a case proceed to trial the total costs that could be recovered, would be $700 in a Supreme Court action, as opposed to the present total of $300 in New York City and $150 in other counties. If the jump seems at all dramatic, it is only because of continuing omissions over the years to have the costs provisions track the inflationary movement of the dollar.

A proposal to have costs for the trial stage progress on a per diem basis (the amount proposed was $200 daily) was deferred by the Committee, not because it was unfair or unjust, but because it was deemed to be too radical in the context of the history of costs in New York.

Motion costs at present are a maximum of $40 under CPLR 8202. The proposal would raise the maximum to $100. Considering that this provision governs every category of motion, and that ordinarily even the most insignificant motion will entail time and effort ultimately costing each litigant well in excess of the $100 maximum proposed, the figure was deemed a reasonable one.

It should be noted that CPLR 8202 governs the amount of motion costs, if awarded. Whether to award costs, however, is covered by CPLR 8106, which leaves the matter to the court's discretion. A court's discretion could of course be exercised to award costs in a sum, less than the $100 maximum. Several members of the Committee expressed the view that a more liberal application of the costs sanction on motion might have the salutary effect of discouraging frivolous motions.

The sum of $75 is the maximum award applicable at present on an appeal to the Appellate Division under CPLR 8203 (a). The proposal raises this to $250 and eliminates the two-stage award (one before and one after argument) in use at present.

The sum of $125 is the present maximum for costs upon an appeal to the Court of Appeals under CPLR 8204. The proposal raises this to $500, still far from any realistic appraisal of the appeal's actual cost but nonetheless a step forward. Again, the two-stage standard now applicable is abandoned.

The labors that went into a formulation of the costs proposals were largely those of one of the Committee's own members, William D. Eggers of Rochester, and the Committee wishes to acknowledge those efforts with thanks.

13. CCA §1809, UCCA §1809, UDCA §1809, UJCA §1809 (S. 4171; A. 5772).

The Committee recommends that the New York City Civil Court Act §1809 and identical provisions in the uniform court acts be amended and simplified to allow any corporation, rather than only those who at present qualify under the statutory restrictions, to defend a small claims action without an attorney.

Recommendation

AN ACT

To amend the New York City civil court act, the uniform city court act, the uniform district court act and the uniform justice court act, in relation to the appearance of a corporation in the defense of a small claims action

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section eighteen hundred nine of the New York City civil court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or employee* of such corporation.

§2. Subdivision two of section eighteen hundred nine of the uniform city court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, employee of such corporation.

§3. Subdivision two of section eighteen uniform district court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or employee* of such corporation.

§4. Subdivision two of section eighteen hundred nine of the uniform justice court act, as added by chapter two hundred of the laws of nineteen hundred seventy-six, is amended to read as follows:

2. A corporation may appear in the defense of any small claim action brought pursuant to this article by a natural person who is [a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons,] an officer, *director or* employee of such coporation.

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee recommends the proposed amendment on the ground that the policy underlying the provisions which permit a corporate defendant to appear in small claims actions without an attorney would be fully implemented only by enactment of the proposed legislation. It should be noted that no change is recommended in the provisions which prohibit corporations from commencing small claim actions with or without on attorney.

The general provision of section 321 (a) of the Civil Practice Law and Rules, which is salutary, provides that a corporation or voluntary association shall always appear in an action by an attorney, "except as otherwise provided in section 1809 of the New York city civil court act, the uniform district court act, the uniform city court act and the uniform justice court act". In 1976 these court acts all were identically amended to permit a corporation to appear in the defense of a small claim action, without an attorney, by "a shareholder who owns not less than one-third of the issued shares of voting stock of such corporation or, in the case of a corporation having no more than ten holders of issued shares of voting stock, all of whom are natural persons, an officer of the corporation".

The Advisory Committee on Civil Practice believes that small claims courts are designed primarily for *pro se* litigation and that the mandatory use of lawyers in these courts is counterproductive to speedy and inexpensive disposition and is unfair to both plaintiffs and defendants. The cumbersome exception that now permits certain corporations to defend a small claims action without a lawyer is inconsistent with the simplicity of procedure desired in small claims courts, and is illogical because the complex formula does not actually distinguish on the basis of corporate size, even though such a distinction may have been intended. Conceivably, under the present statutory formula, a very large family corporation could appear without an attorney.

The traditional justification for requiring a corporation to appear by an attorney is that a corporation is not a natural person who can appear *pro se*. The Court, in *Austrian, Lance & Seward, P.C. v. Hastings Properties, Inc.*, 87 Misc. 2d 25, 26 (1976), states that "the reason corporations are required to act through attorneys is that a corporation is a hydra-headed entity and its shareholders are insulated from personal responsibility. There must, therefore, be a designated spokesman accountable to the Court".

The Advisory Committee believes it untenable that in actions for $100 or $200 against a corporation, the corporate officer familiar with the matter cannot represent the corporation. Often it is inconvenient to retain an attorney for this purpose and the expense is unwarranted. In addition, it is hardly equitable to insist that the small individual claimant, whenever he sues a larger corporation in small claims, must either appear *pro se* and argue against a corporate attorney or else undergo the expense of retaining counsel. The unfairness works both ways.

The Advisory Committee does not feel that shareholders who are not officers should appear for corporation in small claims actions, since this often could involve dissident or unrepresentative shareholders. However, it is proposed that corporation named as defendant in a small claims action, if it does not choose to retain an attorney, may appear by an officer, director or employee.

Part IV - Recommendation on Statute of Limitations Applicable to Certain Actions Based on Latent Injuries.

CPLR 214, 214-c (new)

The Committee recommends the enactment of new CPLR 214-c to provide for a two-year period of limitation for an action to recover damages for personal injury or injury to property caused by a toxic or harmful substance or a hazardous waste. The limitation period would commence on the date plaintiff discovered or, with reasonable diligence, could have discovered such injury and the cause thereof.

Recommendation

AN ACT

To amend the civil practice law and rules, in relation to the statute of limitations for action to recover damages from toxic or harmful substances

Section 1. Section two hundred fourteen of the civil practice law and rules, as amended by chapter two hundred sixty-six of the laws of nineteen hundred eighty-one, is amended to read as follows:

§214. Actions to be commenced within three years: for non-payment of money collected on execution; for penalty created by statute; to recover chattel; for injury to property; for personal injury; for malpractice other than medical malpractice; to annul a marriage on the ground of fraud.

The following actions must be commenced within three years:

1. an action against a sheriff, constable or other officer for the non-payment of money collected upon an execution;

2. an action to recover upon a liability, penalty or forfeiture created by statute except as provided in section 213 and 215;

3. an action to recover a chattel or damages for the taking or detaining of a chattel;

4. an action to recover damages for an injury to property*, except as provided in section 214-c;*

5. an action to recover damages for a personal injury except as provided in section 214-b, *214-c* and 215;

6. an action to recover damages for malpractice other than medical malpractice; and

7. an action to annul a marriage on the ground of fraud; the time within which the action must be commenced shall be computed from the time the plaintiff discovered the facts constituting the fraud, but if the plaintiff is a person other than the spouse whose consent was obtained by fraud, the time within which the action must be commenced shall be computed from the time, if earlier, that that spouse discovered the facts constituting the fraud.

§2. Such law and rules is amended by adding a new section two hundred fourteen-c to read as follows:

§*214-c. Action for damages from toxic or harmful substances. An action to recover damages for personal injury or injury to property caused by a toxic or harmful or a hazardous waste shall be barred unless instituted within two years of the date plaintiff discovered or with reasonable diligence could have discovered such injury and the cause thereof.*

§3. An action to recover damages for a wrongful act, neglect or default causing death arising or resulting from a toxic or harmful substance or a hazardous waste shall be governed by section 5-4.1 of the estates, powers and trusts law.

§4. This act shall take effect immediately and shall apply in every action and proceeding hereafter commenced. Nothing herein contained shall be construed to revive any action or proceeding barred as of the effective date of this act because the period of limitation applicable under the law in effect prior hereto has expired.

Comment

This bill would add a new section 214-c to the CPLR to provide for a two-year statute of limitations which begins to run when a plaintiff discovers or could with reasonable diligence have discovered his or her injury and the cause thereof where such injury was caused by contact with a toxic or harmful substance or hazardous waste. It would apply to personal injuries and injuries to property caused by any exposure to or contact with such substance or waste. Other technical amendments are included.

This bill would become effective upon enactment and be applicable to every action commenced after the effective date. However, no action previously barred by the existing statute of limitations would be revived.

Personal injuries and injuries to property caused by toxic or harmful substances or hazardous wastes often do not manifest themselves until many years after the last exposure. Under existing law, the statute of limitations begins to run at the time the cause of action accrues (CPLR 203[a]), which has been interpreted to mean from the date of the last exposure. *Schmidt* v. *Merchants Desp. Trans. Co.*, 270 N.Y. 287 (1936); *Schwartz* v. *Heyden Chemical Corp.*, 12 N.Y. 2d 212 (1963); *Thornton* v. *Roosevelt Hosp., 47 N.Y. 2d 780 (1979); Stenhardt* v. *Johns-Manville Corp.*, 54 N.Y. 2d, 1008 (1981). The current three-year statute of limitations (CPLR 214) thus creates a severe injustice, as the time within which an action can be brought often expires before the potential plaintiff discovers or could have discovered his or her injuries and the cause thereof. This bill is intended to change the law as enunciated in that line of cases.

Many bills, with varying provisions, have been introduced in recent years which have as their purpose the creation of a statute of limitations which begins to run from the time of discovery rather than the time of last exposure.

The unfairness of the existing rule has been widely recognized. Thirty-six jurisdictions have adopted some form of discovery rule in these types of personal injury and property damange casses. In ten jurisdictions, the rule has been enacted by the Legislature; in the other 26 jurisdictions, a discovery rule has been adopted by means of judicial decision. However, the Court of Appeals has made it clear in *Thornton* and in *Steinhardt* that it is not prepared to adopt such a rule, but believes that any change should be made by the Legislature.

In *Martin* v. *Edwards Labs.*, 60 N.Y. 2d 417, 426 (1983), the Court of Appeals again "reaffirmed the rule that the time to sue for injuries resulting from inhalation, ingestion or injection of harmful substances runs from the last exposure, not form discovery of the injury." It is, therefore, up to the Legislature to act.

Basic fairness dictates that a cause of action based on an injury caused by a toxic or harmful substance or hazardous waste not be barred prior to the time the plaintiff becomes aware of the injury and its cause.

The Advisory Committee on Civil Practice studied this issue for many months before deciding to propose this bill. It carefully examined the various alternatives proposed in other bills which have been introduced, and reviewed the laws of other jurisdictions. Although some Committee members would have preferred a somewhat different discovery rule than that proposed, the Committee believes that it is time for New York to adopt a discovery rule. Other members of the Committee would have preferred a bill that also creates a discovery rule in wrongful death actions (in addition to actions for personal and property damage).

The Committee's proposed bill provides for a two-year statute of limitations that commences to run from the date of the discovery of the injury and its cause. It should be noted that the Committee's bill is not intended to reduce the current three-year statute of limitations in personal injury and property damage actions measured from the date of the accrual of the cause of action, *i.e.*, date of injury. Therefore, a plaintiff with such a cause of action would have the option of instituting the action within three years of his or her injury pursuant to CPLR 203(a) and 214, or within two years of the discovery of the injury and its cause pursuant to CPLR 214-c, whichever period is longer.

Part V - Pending and Future Matters

The Committee continues to consider several pending projects and the initiation of studies affecting civil practice with a view to recommending legislation. One of Dean Birnbaum's innovations, which promises to be utilized extensively for work in progress of this type, is the appointment of Subcommittees consisting of certain members of the Committee who, by virtue of their backgrounds and concentration, have developed expertise in particular areas of civil practice. These subcommittees have been designated to study special areas and assigned the task of formulating bills or other recommendations, backed by study, on particular topics, for full Committee deliberation and action.

The following Subcommittees have been formed and have addressed their assigned tasks as follows:

1. The Subcommittee on Matrimonial Procedures has made recommendations on expediting matrimonial and other proceedings involving the status of children, as well as recommendations on the applicability of the Committee's Disclosure Bill to matrimonial proceedings, which are reflected in the commentary in Part II of this Report.

2. The Subcommittee on the Code of Evidence recommended for inclusion in the Committee's report to the Chief Administrator of the Courts, that, in the interest of fair and clear procedural standards, the proposed Code of Evidence, if that Code is enacted, should specify the extent and nature of the pre-admission notice required by several of its provisions and the procedures relating to such notice, at present only generally set forth in the proposed Code.

3. The Subcommittee on the Constitutionality of Enforcement Provisions, with possible legislation in mind, continues to monitor the operation and effect of Chapter 882 of the Laws of 1982, which, in the wake of *Deary* v. *Guardian Loan Co., Inc.* 534 F. Supp. 1178 (S.D.N.Y.) amended CPLR 5222, 5232 and 5234 to provide for prior notice of restraining notices and executions or garnishments.

4. The Subcommittee on Statutes of Limitation has proposed a bill which would incorporate a more equitable provision governing the running of time for commencement of actions based on latent injuries caused by contact or exposure to toxic products or hazardous wastes. The details are discussed in Part IV of this Report.

5. The Subcommittee on Contribution and Apportionment of Damages intends to present a preliminary progress report to the Committee, containing possible recommendations for improving the incidence of settlements under General Obligations Law §15-108. Questions raised by *Riviello* v. *Waldron*, 47 N.Y.2d 297 (1979), on the exclusion of indemnification under the statute may be considered as part of the study.

6. The Subcommittee on Service of Process will report in the near future on a proposal to ameliorate the harsh effect of *Feinstein* v. *Bergner*, 48 N.Y.2d 234 (1979) and *Ericson* v. *Macy*, 236 N.Y. 412 (1923), where plaintiff's actions were dismissed on the merits because of technical defects in the methods of service of process.

7. The Subcommittee on Small Claims is studying a number of proposals on small claims procedure for future report. In view of the different problems encountered in Small Claims Court in New York City, as distinguished from the courts in counties outside of New York City, the Subcommittee has undertaken a statewide canvass of such courts, through the appropriate Administrative Judges, to determine local conditions preparatory to making its recommendation.

8. The Subcommittee on Time Periods in Motion Practice has reported its recommendations for easing the obstacles to timely service which are encountered when mail is resorted to. The recommendations, which include expansion of time limits and a new method of measuring those limits, will be considered as a subject for possible future legislation. These recommendations, if agreed upon, may be included in a supplemental report later in 1984 or may be included in the Committee's ay be included in a supplemental report later in 1984 or may be included in the Committee's 1985 report.

Additional matters of importance under consideration of the Committee include the following:

1. Further study is contemplated on the costs provisions applicable in litigation, including the extra allowances provided by Article 83 of the CPLR and the costs applicable to smaller actions pursuant to Article 19 of the lower court acts. This study has been deferred until adoption of the basic increase bill that was unsuccessfully submitted to the last three sessions of the Legislature. The bill will be submitted again this year, as set forth in Part III of this Report.

2. The Committee will continue to accept and review the suggestions and proposals that have been submitted to it from members of bench and bar and from the various clerks' offices around the State in response to its proposed amendments of the official forms.

3. The Committee continues to explore the possibility of an effective proposal for avoiding forum abuse in smaller actions which appropriately would belong under small claims jurisdiction but are in fact commenced in the Supreme Court in plaintiff's county, although the claim arose and the defendant resides in a different county.

4. There are a number of other proposals, of varying size and impact, also before the Committee, which do not require individual enumeration here.

The Committee continues to solicit the comments and suggestions of bench, bar, academic community and public, and invites the sending of all observations, suggestions and inquiries to:

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1984 Report

of the

Advisory Committee on Criminal Law And Procedure

to the

Chief Administrator of the Courts

of the

State of New York

February 15, 1984

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I. Introduction

This is the Thirteenth Annual Report of the Advisory Committee on Criminal Law and Procedure. We recommend endorsement of twenty-one measures to amend the Criminal Procedure Law, one to amend the Penal Law and one to amend the Vehicle and Traffic Law. Four of these measures are being submitted for the first time, while the balance have been submitted previously, although one has been slightly modified.

The new measures include proposals: providing for the removal of sworn jurors from the jury box or jury room; authorizing discharge of alternate jurors when a jury retires for deliberations, absent defendant's consent to their service should the need for substitution arise; permitting the court to defer decision on a motion to suppress identification testimony until trial; and authorizing local courts to grant applications for orders compelling submission to chemical tests.

Part II of this Report summarizes each of the measures previously submitted and explains its purpose. Part III summarizes each of the measures being submitted for the first time, and the measure submitted previously but modified upon submission this year. In both parts II and III, individual summaries are followed by drafts of appropriate legislation.

II. Previously Endorsed Measures

A. Establishment of a Procedure to Obtain Warrant of Arrest.

It is recommended that section 1.20 and article 120 of the Criminal Procedure Law be amended to establish a procedure for obtaining a warrant of arrest prior to the formal commencement of a criminal action.

The United States Supreme Court has held that an arrest warrant must be obtained before police may enter a suspect's home to make a "routine" felony arrest, absent exigent circumstances. *Payton* v. *New York*, 445 U.S. 573 (1980). Under existing New York law, an arrest warrant may not be issued until after an accusatory instrument commencing a criminal action is filed. CPL §120.10. This limitation causes difficulty when authority to arrest is needed and a court is unavailable for the filing of the accusatory instrument, or practical problems delay the preparation of the instrument itself. There are also circumstances under which probable cause to arrest an individual exists but further investigation is warranted before the prosecution can determine whether to commence a criminal action. Therefore, it is necessary to develop a mechanism whereby law enforcement officers possessing the statutory requirements to arrest without a warrant in a public place may obtain judicial authorization to arrest a person in his home before formal criminal proceedings are begun.

Our proposal would establish that mechanism by amending the existing arrest warrant provisions to permit an *ex parte* application to be made to the court for a warrant when a person may be arrested for a crime pursuant to section 140.10 of the Criminal Procedure Law and all other statutory requirements are met. The application provisions are patterned after those governing search warrants (*see*, CPL §690.35), and the procedure to be followed after arrest remains as stated in section 140.20 with the additional requirement of a return of the warrant and a report to the court indicating the time and place of the arrest and subsequent steps taken.

The new procedure established by this measure will safeguard the rights of individuals suspected of criminal activity while permitting law enforcement officers to complete their investigations before commencing formal proceedings. It must be noted, however, that this measure may also have an impact upon the scope of other investigatory procedures which may be conducted before an action is commenced. *See, People* v. *Samuels*, 49 N.Y. 2d 218 (1980).

AN ACT

To amend the criminal procedure law, in relation to warrant of arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions twenty-eight and twenty-nine of section 1.20 of the criminal procedure law are amended to read as follows:

28. ["Warrant] *(a) "Warrant of arrest" means a process of a criminal court, more fully defined in subdivisions three and four of section 120.10, directing a police officer to arrest a person.*

(b) "Local criminal court warrant of arrest" means a [process] *warrant of arrest* of a local criminal court [, more fully defined in section 120.10,] directing a police officer, *pursuant to article 120,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

[29.] *(c)* "Superior court warrant of arrest" means a [process] *warrant of arrest* of a superior court directing a police officer , *pursuant to subdivision three of section 210.10,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

§2. Sections 120.10, 120.20, 120.30 and 120.40 of such law, section 120.10 as amended by chapter eight hundred forty-three of the laws of nineteen hundred eighty, section 120.40 as amended by chapter sixty-one of the laws of nineteen hundred seventy-three, are amended to read as follows:

§120.10. Warrant of arrest; definition, function, form and content. 1. A *warrant of arrest is a process of a criminal court directing a police officer to arrest a person.*

2. A local criminal court warrant of arrest is a [process] *warrant of arrest* issued by a local criminal court directing a police officer or peace officer appointed by the state university to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a *local criminal court* warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

[2.] *3.* A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense [charged in the underlying accusatory instrument] *for which the person is to be arrested*, and (d) the name of the [defendant] *person* to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers or peace officers appointed by the state university to whom the warrant is addressed, and (f) a direction that such officer arrest [the defendant] *such person, and (g) where the warrant of arrest issued upon an accusatory instrument, a direction to* bring him before the issuing court.

[3]. *4.* A warrant of arrest may be addressed to *any police officer*, a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers, as well as to peace officers appointed by the state university. Multiple copies of such a warrant may be issued.

§120.20 Warrant of arrest; when issuable. *1.* When a criminal action has been commenced in a local criminal court by the filing therewith of an accusatory instrument, other than a simplified [traffic] information, against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto, such court may, if such accusatory instrument is sufficient on its face, issue a *local criminal court* warrant *of arrest* for such defendant's arrest.

2. (a) Where a person may be arrested for a crime pursuant to section 140.10, a police officer or a district attorney may apply to a criminal court for a warrant of arrest. Upon such application, if the criminal court is satisfied that an arrest of such person is authorized by section 140.10, the court may issue the warrant.

(b) an ex parte application for such warrant must be submitted to a judge of a criminal court and it must be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, to the issuing judge and recorded verbatim. The application must contain:

(i) The name of the court, the name and title of the applicant, and the date of the application;

(ii) A statement that an arrest of a named person (or, if such be unknown, any name or description by which such person can be identified with reasonable certainty) for a specified crime is authorized by section 140.10;

(iii) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief. The applicant may also submit dispositions of other persons containing allegations of fact, based upon personal knowledge or upon information and belief, supporting or tending to support those contained in the application. Allegations based upon information and belief shall include the source of such information and the grounds of such belief; and

(iv) A request that the court issue the warrant.

[2] *3.* Even though such accusatory instrument *or application, as the case may be,* is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.

[3] *4.* Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a *local criminal court* warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a *local criminal court* warrant of arrest.

§120.30 Warrant of arrest; by what courts issuable and in what courts returnable. 1. *a warrant of arrest may be issued by a criminal court with geographical jurisdiction of a crime specified in the application submitted to it pursuant to subdivision two of section 120.20.*

2. A local criminal court warrant of arrest may be issued only by the local criminal court with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only.

[2] *3.* The particular local criminal court or courts with which any particular local criminal court accusatory instrument may be filed for the purpose of obtaining a *local criminal court* warrant of arrest are determined, generally, by the provisions of section 100.55. If, however, a particular accusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

§120.40 Warrant of arrest; attaching accusatory instrument to warrant of town court or village court. A town court or a village court which issues a *local criminal court* warrant of arrest may attach thereto a duplicate copy of the underlying accusatory instrument. If one or more duplicate copies of the warrant are issued, such court may attach as many copies of such accusatory instrument to copies of such warrant as it chooses. In any case where, pursuant to subdivision five of section 120.90, a defendant arrested upon such a warrant of arrest is brought before a local criminal court other than the town court or village court in which the warrant is returnable, a copy of the accusatory instrument constitutes a valid basis for arraignment as provided in subdivision one of section 170.15.

§3. Section 120.50 of such law is REPEALED.

§4. Section 120.90 of such law is amended by adding a new subdivision eight, to read as follows:

8. Notwithstanding the foregoing provisions of this section, the procedure following an arrest upon a warrant of arrest issued pursuant to subdivision two of section 120.20 shall be as provided in section 140.20. Further, within a reasonable time after the arrest of a person pursuant to such warrant, a police officer shall return the warrant to the issuing court and file with it a report of the time and place of arrest and a report as to which of the procedures of section 140.20 were followed. The failure to file such report shall not be grounds for invalidating the arrest or the evidence derived from the arrest.

§5. This act shall take effect immediately.

Note: CPL 120.50 is repealed by this act since its provisions are included within subdivision three of CPL 120.10.

B. Authority for the Chief Administrator to Prescribe Forms.

It is recommended that the Criminal Procedure Law be amended by adding a new section 1.15 which authorizes the Chief Administrator of the Courts to adopt, amend and rescind forms to be used in all criminal courts throughout the State.

Under existing provisions of the Civil Practice Law and Rules (§107), the Family Court Act (§214), and the Surrogate's Court Procedure Act (§106), the Chief Administrator is authorized to prescribe forms for the efficient administration of these acts. Our proposal would include similar authority in the Criminal Procedure Law. It would also provide, however, that failure to use the official forms promulgated by the Chief Administrator shall not, for that reason alone, be grounds for the denial or granting of any motion.

At present, a variety of forms are employed in criminal practice around the State. By insuring a substantial measure of uniformity, this measure would have the salutary effect of promoting the orderly and efficient administration of justice.

AN ACT

To amend the criminal procedure law and the judiciary law, in relation to the adoption of forms for use in the criminal courts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new section 10.40 to read as follows:

§10.40 Chief administrator to prescribe forms. The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion.

§2. Subdivision two of section two hundred twelve of the judiciary law is amended by adding a new paragraph (f) to read as follows:

(f) Have the power to prescribe forms pursuan to section 10.40 of the criminal procedure law.

§3. This act shall take effect immediately.

C. Immunity of Grand Jury Witnesses.

It is recommended that section 190.40 of the Criminal Procedure Law be amended to clarify existing law by providing that a witness before the grand jury does not receive immunity by reason of giving identification evidence of a nontestimonial character which the witness would have no constitutional privilege to withhold.

Section 190.40 now confers immunity upon any witness who has been compelled to "give evidence" before the grand jury. This standard of "giving evidence" is, however, overbroad and could be construed to authorize immunity for a person appearing before the grand jury even if the evidence he gives were nontestimonial and not of a type which he is otherwise privileged to withhold.

If a witness has no privilege with respect to this evidence, he has given up nothing by furnishing it to the grand jury and should not receive immunity as a result.

These considerations apply primarily to the giving of nontestimonial identification evidence, such as standing in a lineup, or furnishing a blood, voice, handwriting or fingerprint sample. A witness has no constitutional privilege to refuse to give this evidence, *Schmerber* v. *California*, 384 U.S. 757 (1966), and, therefore, should not receive immunity by reason of providing it.

Paragraph (c) of subdivision two of section 190.40, as added by the Legislature in 1975, recognizes the principle as it applies to corporate books and records which a witness similarly would not be privileged to withhold. Our proposal would delete paragraph (c) and replace it with a general provision which limits the grant of immunity to evidence which is protected from disclosure by the privilege against self-incrimination.

AN ACT

To amend the criminal procedure law, in relation to the immunity received by grand jury witnesses to make clear that no immunity results from the giving of nontestimonial identification evidence which the witness would have no constitutional privilege to withhold

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.40 of the criminal procedure law, paragraph (c) of subdivision two thereof as added by chapter four hundred fifty-four of the laws of nineteen hundred seventy-five, is amended to read as follows:

§190.40 Grand jury; witnesses, compulsion of evidence and immunity. 1. Every witness in a grand jury proceeding must give any evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him.

2. [A witness who gives evidence in a grand jury proceeding] *In a grand jury proceeding, a witness who is required to give evidence under subdivision one which he would otherwise be entitled to withhold by virtue of the privilege against self-incrimination,* receives immunity unless:

(a) He has effectively waived such immunity pursuant to section 190.45; or

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.

[(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.]

§2. This act shall take effect immediately.

D. Conduct of *Voir Dire*

It is recommended that section 270.15 of the Criminal Procedure Law be amended to transfer responsibility for conducting the voir dire of prospective jurors in a criminal case from the parties to the court.

Under the proposal, the court would conduct a general examination of prospective jurors regarding their qualifications to serve. The parties would be permitted to submit written questions to the court in advance of the *voir dire;* and to submit oral or written questions during the actual questioning. The court may add these questions to its own inquiry, or it may permit counsel to ask them of the prospective jurors directly.

This procedure would result in the elimination of significant amount of delay caused by unnecessarily prolonged *voir dire;* now conducted by counsel for the parties. It combines attributes of the existing system, in which *voir dire* is generally conducted by the court without the participation of the lawyers. *See,* Fed. Rules Cr. Proc. rule 24(a). Our proposal would eliminate delay while preserving the rights of the parties to an impartial jury.

AN ACT

To amend the criminal procedure law, in relation to examination of prospective jurors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and two of section 270.15 of the criminal procedure law, subdivision one as amended by chapter three hundred one of the laws of nineteen hundred eighty-one and subdivision two as amended by chapter three hundred two of the laws of nineteen hundred eighty-one, are amended to read as follows:

1. If no challenge to the panel is made as prescribed by section 270.10, or if such challenge is made and disallowed, the court must direct that the names of not less than twelve members of the panel be drawn and called as prescribed by the judiciary law. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The court must [permit both parties, commencing with the people, to] examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. *In conducting this examination, the court must ask the prospective jurors any questions submitted to the court in writing by either party prior to trial, or the court may permit counsel to ask such questions. The court must also ask any additional questions submitted by either party, orally or in writing, during the course of the examination, or the court may permit counsel to ask such questions.* The scope of the examination is within the discretion of the court, and the court may disallow [statements or] questions [by] *of* either party that are irrelevant to the examination or repetitious.

2. Upon the completion of such examination [by both parties], each *party*, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. If either party so requests, challenges for cause must be made and determined, and peremptory challenges must be made, within the courtroom but outside of the hearing of the prospective jurors in such manner as not to disclose which party made the challenge. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

§2. This act shall take effect immediately.

E. Reduction of Peremptory Challenges.

It is recommended that section 270.25 of the Criminal Procedure Law be amended to reduce the allotted number of peremptory challenges from twenty to fifteen if the highest crime charged is a Class A felony, from fifteen to twelve if the highest crime charged is a Class B or C felony, and from ten to eight in all other cases.

After conducting an intensive study of the method of jury selection in New York, the Subcommittee on the Jury System of the Advisory Committee on Court Administration, chaired by the Hon. Caroline K. Simon, recommended the reduction of the number of peremptory challenges to the levels proposed herein as a means of improving the efficiency of our jury selection system. Subcommittee on the Jury System, *Interim Report*, 1976/77. The Subcommittee based its recommendation on the following specific findings:

1. There is a direct correlation between the number of peremptory challenges permitted and the excessively large size of panels sent to *voir dire*.

2. Peremptory challenges extend the time necessary to conduct *voir dire*, which has the effect of delaying trials and congesting court calendars.

3. The use of the challenge provokes hostility and resentment on the part of jurors who are peremptorily excused.

4. The availability of a large number of peremptory challenges in criminal cases can result in systematic exclusion of particular groups from jury service in a given trial.

5. It is questionable whether the peremptory challenge accomplishes the purpose for which it was devised — producing an impartial jury; indeed, it may convincingly be argued that it is used by attorneys to pick a biased jury rather than an unbiased one.

The Subcommittee also noted that New York now allows more challenges in felony cases than most other states.

This Committee agrees with these findings and recommends this proposal as an effective method of reducing a significant amount of delay in the conduct of criminal jury trials, without diminishing the fairness of the trial.

Our proposal would permit the court, for good cause shown to increase the number of allotted peremptory challenges to the level allowed under existing law. We feel this authority is necessary to preserve the rights of the parties in exceptional cases.

AN ACT

To amend the criminal procedure law, in relation to the number of peremptory challenges.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

2. Each party must be allowed the following number of peremptory challenges:

(a) [Twenty] *Fifteen* for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected [;] *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of twenty.*

(b) [Fifteen] Twelve for the regular jurors if the highest crime is a class B or class C felony, and two for each alternate juror to be selected [;] *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of fifteen.*

(c) [Ten] *Eight* for the regular jurors in all other cases, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of ten.*

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

F. Prosecution of Superseding Indictments.

It is recommended that section 450.50 of the Criminal Procedure Law be amended to permit the People to retry an indictment after an unsuccessful appeal of an order granting a motion to suppress when newly discovered evidence, not available at the time the appeal was taken, indicates that prosecution is in the interest of justice.

When the people take an appeal from an order suppressing evidence, they must first file a statement asserting that the deprivation of the use fo the suppressed evidence has rendered the sum of the proof available to the People either insufficient as a matter of law or so weak in its entirety that any reasonable possibility of prosecuting the charge to a conviction has been effectively destroyed. CPL §450.50(1). If the appeal is unsuccessful and the order is not reversed by the appellate court, the taking of the appeal "prohibits subsequent prosecution of the same defendant upon either the same or a superseding accusatory instrument for the crimes charged in the original instrument, at least in the absence of extraordinary circumstances." *Forte v. Supreme Court of New York*, 48 N.Y. 2d 179, 188 (1979); CPL §450.50(2).

Our proposal would specifically define the extraordinary circumstances alluded to in *Forte* and remove the absolute bar to prosecution in those instances where it would unduly encumber the administration of justice. For example, a literal interpretation of the exzisting statute would bar the prosecution of a defendant who voluntarily confesses to the crime after the People have filed their required statement. The dissent in *Forte* called for legislative action to correct the injustice which occurs when evidence not previously available to the District Attorney later becomes available. 48 N.Y. 2d at 191.

Our proposal would codify that suggestion and eliminate a potential injustice in those rare instances when a court determines that subsequent developments should allow the prosecution to proceed.

AN ACT

To amend the criminal procedure law, in relation to superseding indictments.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The section heading of section 450.20 of the criminal procedure law is amended to read as follows:

§450.20 Appeal by people to intermediate appellate court; in what cases authorized *as of right.*

§2. Such law is amended by adding a new section 450.25 to read as follows:

§450.25 Appeal by people to intermediate appellate court; in what cases authorized by permission.

If an appeal by the people is not authorized as of right pursuant to section 450.20, the people may appeal from an order of a criminal court denying a motion made pursuant to paragraph (c) of subdivision two of section 450.50 to authorize prosecution, provided that as certificate granting leave to appeal is issued pursuant to section 460.15.

§3. Subdivision two of section 450.50 of such law is amended to read as follows:

2. The taking of an appeal by the people, pursuant to subdivision eight of section 450.20, from an order suppressing evidence constitutes a bar to the prosecution of the accusatory instrument involving the evidence ordered suppressed, unless and until: *(a) the appeal is withdrawn with the permission of the intermediate appellate court, or* (b) such suppression order is reversed upon appeal and vacated, or *(c) new evidence is discovered which, at the time of submission or argument of the appeal, was not known by the people and could not have been known or produced with due diligence, and the evidence is such that had it been known or available, the prosecutor would not have been authorized to file the statement required by subdivision one; provided, however, that a prosecution may not be permited pursuant to paragraph (c) unless, after providing defendant notice and an opportunity to be heard the court in which the accusatory instrument was filed, determines that such newly discovered evidence*

authorizes such prosecution.

§4. Subdivision one of section 450.90 of such law is amended to read as follows:

1. Provided that a certificate granting leave to appeal is issued pursuant to section 460.20, an appeal may, except as provided in subdivision two, be taken to the court of appeals by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court pursuant to section 450.10, 450.15, [or] 450.20, *or 450.25*. An order of an intermediate appellate court is adverse to the party who was the appellant in such court when it affirms the judgment, sentence or order appealed from and is adverse to the party who was the respondent in such court when it reverses the judgment, sentence or order appealed from. An appellate court order which modified a judgment or order appealed from is partially adverse to each party.

§5. Subdivision four of section 460.10 of such law is amended to read as follows:

4. An appeal by [a defendant] *an appellant* to an intermediate appellate court by permission, pursuant to section 450.15 *or 450.25*, is taken as follows:

(a) Within thirty days after service upon the [defendant] *appellant* of a copy of the order sought to be appealed, the [defendant] *appellant* must make application, pursuant to section 460.15, for a certificate granting leave to appeal to the intermediate appellate court.

(b) If such application is granted and such certificate is issued, the [defendant] *appellant* within fifteen days after issuance thereof, must file with the criminal court in which the order sought to be appealed was rendered the certificate granting leave to appeal together with a written notice of appeal, or if the appeal is from a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer, either (i) an affidavit of errors, or (ii) a notice of appeal. In all other respects, the appeal shall be taken as provided in subdivisions one, two and three.

§6. This act shall take effect immediately.

G. Justice Who May Grant Leave to Appeal

It is recommended that section 460.20 of the Criminal Procedure Law be amended to provide that permission to appeal to the Court of Appeals from an order of an appellate division may not be sought from a justice who did not participate in the determination.

Section 460.20 now allows permission to be granted by any "justice of the appellate division of the department which entered the order sought to be appealed." Although this appears to encourage "judge-shopping," in practice, permission to appeal usually is sought only from an appellate justice who dissented in the case. Nevertheless, where the application is made to one who did not hear the arguments or participate in the decision, the unmistakable inference is that he or she has been selected because the appellant perceives a predisposition to the appellant or to a particular side, defense or prosecution. Although this perception may be incorrect, the choice of a nonparticipating justice gives the appearance of impropriety and should not be permitted.

This proposal was cited with approval by the Court of Appeals in its unanimous decision in *People* v. *Dorta*, 46 N.Y. 2d 818 (1978). That case was before the Court of Appeals by permission of a justice of the appellate division who did not participate in the determination sought to be appealed. The Court of Appeals commented:

> ....While such procedure is presently authorized (CPL 460.20 subd. [2], par. [a]), we believe the better practice to be that which was recently advocated by the Advisory Committee on Criminal Law and Procedure — to wit, that an appellant be prohibited from seeking leave to appeal to the Court of Appeals from a Justice of the Appellate Division who did not participate in the determination of the case. 46 N.Y 2d at 821.

AN ACT

To amend the criminal procedure law, in relation to certificates granting leave to appeal to the court of appeals.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision two of section 460.20 of the criminal procedure law is amended to read as follows:

(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals of (ii) a justice of the appellate division [of the department which entered the order sought to be appealed] *who participated in the determination of the order sought to be appealed.*

§2. This act shall take effect immediately, and shall apply to all cases in which the order of the appellate division sought to be appealed was entered on or after such effective date.

H. Use of Conditional Examinations and Prior Testimony.

Four years ago, we recommended an amendment to article 660 of the Criminal Procedure law to authorize the videotaping of conditional examinations, to expand authorization for use of these examinations and to expand the use of prior testimony in general. Although authorization for videotaping was adopted in the 1979-80 session of the Legislature, the remainder of the Committee's proposal was not passed. It is now recommended that section 660.20 be amended to allow conditional examinations of witnesses where there is a showing of an attempt to induce the witness to be absent or otherwise unavailable to testify, and to permit the use of prior testimony given at any pretrial hearing when all statutory conditions are met.

The expansion of the use of conditional examinations to situations where there is an attempt to induce the witness to be absent is a reasonable response to those rare situations in which this authority is necessary. This is especially true now that the examination may be videotaped, thereby enabling the trier of fact to obtain a complete view of the witness as well as a transcript of the testimony.

Authority to use transcripts of prior testimony given at pre-trial hearings is likewise reasonable and desirable, since the statute already permits the use of previous testimony given at preliminary hearings upon felony complaints. Other previous testimony is no less reliable and, therefor, also should be admissible when all other statutory requirements are met. The United States Supreme Court recently has determined that the use of the previous testimony of an unavailable witness does not violate the confrontation clause of the United States Constitution when adequate safeguards similar to those applicable in New York exist to ensure the reliability of the testimony. *State of Ohio* v. *Roberts*, 100 S. Ct. 2531 (1980).

AN ACT

To amend the criminal procedure law, in relation to conditional examination of witnesses.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 660.20 of the criminal procedure law is amended to read as follows:

§660.20. Examination of witnesses conditionally; ground for order. An order directing examination of a witness conditionally must be based upon the [ground] *grounds* that there is reasonable cause to believe that such witness[:1. Possesses] *possesses* information material to the criminal action or porceeding in issue[;], and *that:*

[2. Will] *1. The witness will* not be amenable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is [:

(a) About] *about* to leave the state and not return for a substantial period of time[;] or *he is*

[(b) Physically] *physically* ill or incapacitated; *or*

2. there has been an attempt to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

§2. Subdivision one of section 670.10 of such law, as amended by chapter two hundred ninety-one of the laws of nineteen hundred eighty, is amended to read as follows:

1. Under circumstances prescribed in the article, testimony given by a witness at (a) a *hearing or* trial of an accusatory instrument, or (b) [a hearing upon a felony complaint conducted pursuant to section 180.60, or (c)] an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. Upon being received into evidence, such testimony may be read and any videotape or photographic recording thereof played. Where any recording is received into evidence, the stenographic transcript of that examination shall also be received.

§3. This act shall take effect immediately.

I. Summary Dismissal of Motions to Suppress Evidence.

It is recommended that section 710.60 of the Criminal Procedure Law be amended to allow a court to dismiss summarily a motion to suppress statements when the movant fails to provide sworn allegations of fact to support the motion. This procedure has been upheld, under existing law, by the Appellate Division, Second Department, *People v. Roberto H.*, 67 AD 2d 549 (2d Dept., 1979). Our proposal would merely codify that decision. The Criminal Procedure Law "...does not require a hearing on a motion to suppress without regard to whether there is any basis for such motion, and without regard to the factual showing made in support of such motion." 67 AD 2d at 553. By requiring a factual showing, this measure will discourage *pro forma* motions which unnecessarily burden our court system.

AN ACT

To amend the criminal procedure law, in relation to a motion to suppress evidence.

The People of the State of New York, represented in

Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision three of section 710.60 of the criminal procedure law is amended to read as follows:

(b) The sworn allegations of fact do not as a matter of law support the ground alleged [; except that this paragraph does not apply where the motion is based upon the ground specified in subdivision three of section 710.20].

§2. This act shall take effect immediately.

J. Affirmative Defense of Temporary Possession of a Weapon.

It is recommended that the Penal Law be amended by adding thereto a new section 265.06 to establish the affirmative defense of temporary possession of a weapon.

Under present New York law, there are a variety of defensive assertions which may be made at a trial for criminal possession of a weapon. In particular, they include failure of the prosecution to prove the required culpable mental state and statutory exemption as provided by section 265.20 of the Penal Law. They also include a caselaw-established "defense" of temporary possession of a weapon. This defense has been termed "innocent possession" (*People* v. *Williams*, 50 NY 2d 1043), "temporary and incidental possession" (*People* v. *Quintana*, 260 AD 12) and "temporary lawful possession" (*People* v. *Davis*, 61 AD 2d 760).

This caselaw "defense" is overly broad and ill-defined, as a result of which there have been a number of unfounded assertions of it. *See, e.g., People* v. *Williams, supra*. Moreover, the cases are silent as to whether the "defense" is to be disproved by the People beyond a reasonable doubt. *But see, People* v. *Williams, supra* at p. 1046. [Fuchsberg, J., dissenting]. Under these circumstances, trial courts are without guidance in properly charging juries.

We recommend creation of the affirmative defense of temporary possession of a weapon so as to narrow the ambit of defensive assertions which can be successfully advanced at trial. By placing a burden of proof upon the defendant to establish temporary possession by a preponderance of the evidence Penal Law §25.00 (2)), the number of unfounded defensive assertions should thereby be reduced. Under our proposal, defendant must show: (1) that he found the weapon or confiscated it from someone possessing it illegally or from someone whom he reasonably believed had used or might use it illegally, (2) that he intended to turn the weapon over to the authorities, or to render it permanently inoperable or inaccessible to anyone and was pursuing that intent "with immediacy and through a reasonable course of conduct", and (3) that he did not use the weapon illegally.

This measure does not violate due process (*see Commonwealth* v. *Abken*, 391 A2d 672 [Pa. Super. Ct.], *aff'd sub nom. Abken* v. *Pennsylvania*, 440 U.S. 952), and properly makes temporary possession of a weapon an affirmative defense. Like other affirmative defenses under the Penal Law, it represents a means of vindication which is collateral to and distinct from the prosecution's case. Also, like other affirmative defenses, it is generally based upon information likely to be known by the defendant alone.

AN ACT

To amend the penal law, in relation to an affirmative defense of temporary possession of a weapon.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is amended by adding a new section 265.06, to read as follows:

§265.06. *Criminal possession of a weapon; affirmative defense. In any prosecution for criminal possession of a weapon, it is an affirmative defense that:*

(1) the defendant found the weapon or confiscated it from a person who possessed it illegally or confiscated it from a person who the defendant reasonably believed had used or might use it in an illegal manner, and

(2) the defendant intended to turn the weapon over to a peace officer or police officer, or to render it permanently inoperable or inaccessible to anyone, and was pursuing such an intent with immediacy and through a reasonable course of conduct; and

(3) the defendant did not use the weapon in an illegal manner.

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become law.

K. Examination as to Source of Cash Bail of $10,000 or More.

It is recommended that section 500.10 and 520.15 of the Criminal Procedure Law be amended, and that new section 520.16 be added, in order to provide a procedure for examining the source of cash bail in the amount of $10,000 or more.

It has long been the policy of this State that courts should not approve the posting of bail bonds without some inquiry as to their sufficiency or propriety. Section 520.30 of the Criminal Procedure Law, designed to prevent the "laundering" of monies by means of a bail bond, reflects this policy. See also former CCP §§573-577-a. The Criminal Procedure Law is silent, however, as to the need for any comparable inquiry with respect to cash bail. *See*, CPL §520.15[providing only that cash bail is available in every case, and that upon the mere deposit of cash bail with the appropriate agency a defendant must be released]. Without such an inquiry, it becomes entirely possible that defendants will be released upon the posting of cash bail — with the cash being the fruits of the very crime with which they are charged.

Our proposal is designed to foreclose such an undesirable result by providing that cash bail greater than $10,000 may not be posted without prior judicial scrutiny comparable to that now required upon the posting of a bail bond.

AN ACT

To amend the criminal procedure law in relation to cash bail

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 500.10 of the criminal procedure law is amended by adding a new subdivision ten-a to read as follows:

10-a. "Order approving cash bail" means an order of a court approving the posting of cash bail where the amount of money designated in the order fixing bail is ten thousand dollars or more.

§2. Section 520.15 of such law is amended to read as follows:

§520.15 Bail and bail bonds; posting of cash bail. Where a court has fixed bail pursuant to subdivision two of section 520.10, at any time after the principal has been committed to the custody of the sheriff pending the posting thereof, cash bail in the amount designated in the order fixing bail may be posted even though such bail was not specified in such order, *provided, however, that where the amount of money designated in the order fixing bail is ten thousand dollars or more, cash bail may not be deposited unless an order approving cash bail has been issued by the court that has fixed bail.* Cash bail may be deposited with (a) the county treasurer of the county in which the criminal action or proceeding is pending or, in the city of New York with the commissioner of finance, or (b) the court which issued such order, or (c) the sheriff in whose custody the principal has been committed. Upon proof of the deposit of the designated amount the principal must be forthwith released from custody, *except that if the amount of money designated in the order fixing bail is ten thousand dollars or more, the principal may not be released from custody unless proof of the deposit of the designated amount is accompanied by proof of the issuance of an order approving cash bail.*

§3. Such law is amended by adding a new section 520.16 to read as follows:

§*520.16 Bail and bail bonds; order approving cash bail; examination as to source. 1. When cash bail in the amount of ten thousand dollars or more is to be posted in satisfaction of bail, and the district attorney has not issued a waiver of this requirement, the principal or other person on his behalf who is to post such bail must submit to the court that has fixed bail an application, in writing, for an order approving cash bail. The application must be subscribed and sworn to by the applicant and must state:*

(a) the name, residential address and occupation of the applicant and of each person who is providing or furnishing the bail sought to be posted; and

(b) all security, all promises of indemnity, and all compensation or promises of compensation received by the applicant and by each person who has provided or furnished the cash bail sought to be posted, and the name, occupation and residential and business address of every person who has given any such indemnifying security, compensation, or promise; and

(c) whether or not the applicant or any person providing or furnishing the bail sought to be posted has, within a period of two years prior to the date of the application, provided or furnished cash bail in any other case or cases; and

(d) the title of the criminal action or proceeding involved; and

(e) the offense or offenses which are the subjects of the action or proceeding involved and the status of such action or proceeding; and

(f) the name of the principal and the nature of his involvement in or connection with such action or proceeding.

2. Following the submission of an application for an order approving cash bail, the court may conduct an inquiry into any matter stated or required to be stated in the application, and may also inquire into other matters appropriate to the determination, which include but are not limited to the following:

(a) the source of the money sought to be deposited as cash bail, and whether any such money constitutes the of criminal or unlawful conduct;

(b) the source of any property delivered or agreed to

be delivered to the person or persons providing or furnishing the cash bail sought to be posted, and whether any such property constitutes the fruits of criminal or unlawful conduct;

(c) the background, character and reputation of any person who has indemnified or agreed to indemnify the person providing or furnishing the cash bail sought to be posted; and whether any such indemnitor has within a period of two years prior to the date of the application, given indemnification or security for like purpose in any other case or cases in which the amount of money designated in the order fixing cash bail was ten thousand dollars or more.

3. A court may not issue an order approving cash bail unless and until the district attorney has been heard in the matter, or after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived his right to do so. Upon the inquiry conducted pursuant to subdivision two, the court may examine, under oath or otherwise, any person who may possess material information. The district attorney has the right to attend such inquiry, to call witnesses and to examine any witness in the proceeding. The court may, upon application of the district attorney, adjourn the proceeding for a reasonable period to allow him to investigate the matter. At the conclusion of the inquiry the court must issue an order either approving or disapproving cash bail.

§4. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

L. Appeals to the Court of Appeals.

It is recommended that subdivision two of section 450.90 of the Criminal Procedure Law be amended to permit the Court of Appeals to review an unpreserved question of law decided by an appellate division as a matter of discretion in the interest of justice.

An intermediate appellate court may reverse a conviction on the basis of an unpreserved error of law occurring at trial. Because the error is unpreserved, however, reversal cannot be on the law alone *(see, People v. Johnson,* 47 NY 2d 124, 126 (1979)), but upon an exercise of the court's authority to reverse as a matter of discretion in the interest of justice. CPL §§470.15(3)(c) and 470.15(6)(a). The intermediate appellate court's order not being on the law alone, despite any recital to the contrary, no review of that court's action is authorized int eh Court of Appeals. *People v. Cona,* 49 NY 2d 26, 34 (1979); *People v. Johnson, supra; CPL* §450.90(2).

By permitting the Court of Appeals to review an unpreserved question of law, upon which an appellate division has predicated reversal of a criminal conviction, this proposal would perform a salutary function. The present statutory formulation precludes such high court review simply because of the defendant's failure to register appropriate objection or protest at trial. CPL §470.05(2). Thus, the People, who had no reason or occasion to raise that objection or protest, are unfairly restrained from seeking further review of a pure question of law which the appellate division has only reached via exercise of its interest of justice jurisdiction.

Besides insuring that no party may derive a benefit from lack of diligence or inattention at trial, this proposal would cure a serious jurisdictional defect in the Court of Appeals' criminal jurisdiction. At the same time it would not result in any significant increase in the Court's caseload, nor would it encroach on the appellate division's longstanding authority to review criminal cases in the interests of justice. It would merely insure that cases raising questions of law worthy enough to merit exercise of the latter's discretionary powers of review will thereafter be subject to review by our State's highest court.

AN ACT

To amend the criminal procedure law, in relation to appeals to the court of appeals.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 450.90 of the criminal procedure law is amended to read as follows:

2. An appeal to the court of appeals from an order of an intermediate appellate court reversing or modifying as judgment, sentence or order of a criminal court may be taken only if:

(a) The court of appeals determines that the intermediate appellate court's determination of reversal or modification was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal or modification; or

(b) The appeal is based upon a contention that corrective action, as that term is defined in section 470.10, taken or directed by the intermediate appellate court was illegal; *or*

(c) The court of appeals determines that the intermediate appellate court's determination of reversal or modification, irrespective of the form of its order was made as a matter of discretion in the interests of justice based solely upon the intermediate appellate court's review of a question which would otherwise constitute a question of law, but for the lack of protest or preservation pursuant to section 470.05. In such instance, the court of appeals may review the unpreserved or unprotested question of law pursuant to subdivision two of section

§2. This act shall take effect immediately.

M. Presence of Counsel at Competency Examinations.

It is recommended t6hat subdivision one of section 730.20 of the Criminal Procedure Law be amended to provide that defense counsel and the district attorney may be present at an examination conducted under Article 730 to determine if a defendant in a criminal matter lacks "capacity to understand the proceedings against him or to assist in his own defense." CPL §730.20 of the Criminal Procedure Law be amended to provide that defense counsel and the district attorney may be present at an examination conducted under Article 730 to determine if a defendant in a criminal matter lacks "capacity to understand the proceedings against him or to assist in his own defense." CPL §730.10(1). Also recommended is an amendment authorizing a ccourt, in its discretion, to permit a psychiatrist or psychologist retained by either party to attend such a competency examination.

Defense counsel's role, when he is present, would be limited to advising his client; he could not otherwise participate in the examination. Thus, the defendant's Sixt Amendment right to counsel at this critical stage of a criminal proceeding is protected, *see People v. Wood*, 64 AD 2d 676 (3rd Dept. 1978), while intrusion during the examination is minimized. *Cf., Lee v. County Court of Erie County*, 27 NY 2d 432, 444 (1971), *cert. denied*, 404 U.S. 823 (1972).

More than safeguarding defendant's rights, however, this proposal aims to render equal the strategic positions of prosecution and defense when a competency examination is ordered. Accordingly, balancing defense counsel's right to attend as well—albeit strictly in the role of an observer. Likewise, balancing a defendant's right to have a psychologist or a psychiatrist present during as competency examination, a right available under current law, the district attorney should be permitted to bring his own medical expert along, as well.

AN ACT

To amend the criminal procedure law, in relation to presence of counsel at fitness to proceed hearings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 730.20 of the criminal procedure law is amended to read as follows:

1. The appropriate director to whom a criminal court issues an order of examination must be determined in accordance with rules jointly adopted by the [judicial conference] *chief administrator of the courts* and the commissioner. Upon receipt of an examination order, the director must designate two qualified psychiatrists, of whom he may be one, to examine the defendant to determine if he is an incapacitated person, except that if the director is of the opinion that the defendant may be mentally defective, he may designate one qualified psychiatrist and one certified psychologist to examine the defendant. *The psychiatric examiners so designated must notify the district attorney and counsel for the defendant of the time and place of their examination.* In conducting their examination, the psychiatric examiners may employ any method which is accepted by the medical profession for the examination, of persons alleged to be mentally ill or mentally defective. *Both the district attorney and counsel for the defendant have the right to be present at such examination. Counsel for the defendant may advise the defendant, but neither counsel may otherwise take part in the examination.* The court may *also* authorize a psychiatrist or psychologist retained by [the defendant] *either party* to be present at such examination.

§2. This act shall take effect immediately.

N. Discovery of Non-Testimonial Evidence.

It is recommended that section 240.40 of the Criminal Procedure Law be amended to permit a court to require defendant in a case when a felony or misdemeanor or complaint is pending to order a defendant to provide non-testimonial evidence. This proposal would expand this authority to permit the order to issue when a felony or misdemeanor complaint is pending. Since these accusatory instruments must also contain factual allegations establishing probable cause to support the charges, it is unnecessary to exclude them from the list of instruments which provide the basis for the court's order. *See*, CPL §100.15.

AN ACT

To amend the criminal procedure law, in relation to the discovery of non-testimonial evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 240.40 of the criminal procedure law, the opening paragraph of which as amended by chapter three hundred seventeen of the laws of nineteen hundred eighty-three, such subdivision as added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitation, *(a)* the court in which an indictment, superior court information, prosecutor's information, information or simplified information charging a misdemeanor is pending [; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified [;], and (b)

the court in which an indictment, superior court information, prosecutor's information, information, felony complaint or misdemeanor complaint is pending may order the defendant to provide non-testimonial evidence; *provided, however, where a felony complaint is pending in a local criminal court, the superior court which would have trial jurisdiction of the offense or offenses charged were an indictment therefor to result may also order the defendant to provide non-testimonial evidence.* Such order may, among other things, require the defendant to:

(i) Appear in a line-up;

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States.

§2. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

O. Waiver of Appeal After Denial of Motion to Suppress Evidence.

It is recommended that sections 220.50 and 710.70 of the Criminal Procedure Law be amended to provide that a defendant who negotiates a plea following a denial of a motion to suppress evidence waives his right to appeal from such denial unless he and the prosecutor stipulate otherwise at the time the plea is taken.

Section 710.70(2) of the Criminal Procedure Law now provides that "an order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty." This provision enables a defendant, after his motion to suppress is denied, to plead guilty to the charges and save the time and expense of a trial when his main defense was based upon the suppression of evidence. A defendant, in this motion, is not required to go through an entire trial simply to preserve an issue on appeal.

There are, however, many cases in which, to a lesser charge of a or pleads guilty to a charge in one indictment to otiated plea, the defendant pleads guilty cover several other indictments. In these cases, that defendant has made a bargain and received a benefit for this agreement to conviction for a particular crime. Nevertheless, on appeal, he may continue to argue that he should be relieved of the bargain which he freely made. This increases the heavy burden on our appellate courts, and, if the conviction is ultimately reversed, the passage of time may have severely impaired the prosecution's case.

This measure would provide that a negotiated plea will constitute a waiver of defendant's right to appeal from an order denying his suppression motion, unless both defendant and prosecutor stipulate that the former's right to appeal is to be preserved. It is certainly not unfair to require a defendant, as part of a plea bargain, to recognize that the bargain is final and that previous rulings are out of the case. The defendant could still appeal the excessiveness of his sentence or anything else not included in his agreement. Of course, in cases where there have been no plea bargains, defendants will continue to enjoy the right to appeal from a denial of suppression after a guilty plea.

The Court of Appeals has approved the prosecutorial practice of exacting a waiver of appeal from a denial of suppression as part of a negotiated plea. *People v. Williams*, 36 NY 2d 829 (1975). Moreover, the Appellate Division, Second Department, has suggested that the Legislature should preclude such appeals under such circumstances. *People v. Navarro*, 61 AD 2d 534 (1978). This is the object of this measure.

AN ACT

To amend the criminal procedure law, in relation to a waiver of appeal of a denial of a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 220.50 of the criminal procedure law is amended by adding a new subdivision five to read as follows:

5. Where a defendant offers to enter a plea of guilty to part of an indictment, or to an entire indictment or part *of an indictment constituting a complete disposition of one or more other indictments against the defendant then pending, after an order finally denying his motion to suppress evidence made pursuant to article seven hundred ten of this chapter, the court must inform him that entry of such plea will constitute a waiver of his right to appeal from such order, as authorized by subdivision two of section 710.70, unless both he and the prosecutor agree, either on the record or in a writing filed with the indictment, that he may appeal from such order.*

§2. Subdivision two of section 710.70 of such law is amended to read as follows:

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty; *provided, however, where judgment is entered upon a plea of guilty to part of an indictment, as provided in section 220.30, or upon a plea of guilty, whether to an indictment or to part of an indictment, which constitutes a complete disposition of one or more other indictments against the defendant then pending, such order may not be reviewed upon appeal unless, upon entry of the plea, both the defendant and the prosecutor agree, either on the record, or in a writing filed with the indictment, that the defendant may appeal from such order.*

§3. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

P. Waiver of Appeal After Negotiated Plea.

It is recommended that sections 220.50 and 450.30 of the Criminal Procedure Law be amended to provide that a defendant who negotiates a plea thereby waives his right to appeal from the sentence imposed therefor on the ground that it is harsh or excessive unless he and the prosecutor stipulate otherwise at the time the plea is taken.

There are many cases in which, as part of a negotiated plea, a defendant in a criminal case pleads guilty to a lesser charge or pleads guilty to a charge in one indictment to cover several other indictments. In these cases, that defendant has made a bargain and received a benefit for his agreement to conviction for a particular crime. Under current law he may then proceed to appeal from the sentence he receives, challenging it on grounds that it is harsh or excessive or invalid as a matter of law. CPL §450.30(1).

This measure would provide that a negotiated plea will constitute a waiver of defendant's right to appeal from the ensuing sentence upon the ground that it is harsh or excessive, unless both defendant and prosecutor stipulate that the former's right to appeal is to be preserved. It is certainly not unfair to require a defendant, as part of a plea bargain, to recognize that the bargain is final. Of course, in cases where the defendant has no firm idea of the sentence to be imposed, he will be free to seek agreement of the prosecutor to preserve his right to appeal from that sentence; failing that, he may always eschew any proffered bargain.

Nothing in this measure changes a defendant's right to appeal from a sentence on the ground that it is invalid as a matter of law. Moreover, in cases where there have been no plea bargains, defendants will continue to enjoy the right to appeal from a sentence on grounds that it is harsh or excessive.

AN ACT

To amend the criminal procedure law, in relation to a waiver of appeal of sentence on the ground that it was harsh or excessive

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 220.50 of the criminal procedure law is amended by adding a new subdivision five to read as follows:

5. Where defendant offers to enter a plea of guilty to part of an indictment, or to an entire indictment or part of an indictment constituting a complete disposition of one or more other indictments against the defendant then pending, the court must inform him that entry of such plea will constitute a waiver of his right to appeal from the sentence to be imposed on the ground that it is harsh or excessive, as authorized by subdivision two of section 450.10 and by subdivision one of section 450.30, unless both he and the prosecutor agree, either on the record or in writing filed with the indictment, that he may appeal from such sentence on such ground.

§2. Subdivision one of section 450.30 of such law is amended to read as follows:

1. An appeal by the defendant from a sentence, as authorized by subdivision two of section 450.10, may be based upon the ground that such sentence either was (a) invalid as a matter of law, or (b) harsh or excessive. A sentence is invalid as a matter of law not only when the terms thereof are unauthorized but also when it is based upon an erroneous determination that the defendant had a previous valid conviction for an offense or, in the case of a resentence following a revocation of a sentence of probation or conditional discharge, upon an improper revocation of such original sentence. *Notwithstanding*

the provisions of this subdivision, an appeal by the defendant from a sentence may not be based upon the ground that it was harsh or excessive where such sentence was imposed upon a plea of guilty to part of an indictment, as provided in section 220.30, or upon a plea of guilty, whether to an indictment or to part of an indictment, which constitutes a complete disposition of one or more other indictments against the defendant then pending, unless, upon entry of the plea, both the defendant and the prosecutor agree, either on the record or in a writing filed with the indictment, that the defendant may appeal from such sentence on such ground.

§3. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

Q. Establishment of a Procedure for Securing Evidence by Use of Electronic Video Surveillance.

It is recommended that the Criminal Procedure Law be amended by the addition of a new Article 695, to establish statutory guidelines for the use of video electronic surveillance as an extraordinary means of obtaining evidence of criminal activity. Legislative action establishing such guidelines was recommended by the New York Court of Appeals in *People v. Teicher*, 52 NY 2d 638 (1981).

The principal features of the proposed new article, modeled after Articles 690 (search warrants) and 700 (eavesdropping) of the Criminal Procedure Law, include:

Proposed Section 695.05

This section defines critical terms employed in new Article 695. Of special note, "video surveillance" is defined to be "..... the intentional visual observation of a person by means of a television camera or other similar electronic device that is, part of a television transmitting apparatus, whether or not such observation is recorded on film or videotape, and under circumstances whereby such observation, in the absence of a video surveillance warrant, infringes upon such person's reasonable expectation of privacy or otherwise violates such rights as such person may derive from the constitution of this state or of the United States." Also, a "video surveillance warrant" is defined to be an order of a justice of the Appellate Division or of the Supreme Court, or an order of a county court judge, "authorizing video surveillance of a specified person."

Proposed Section 695.10

This section sets forth general restrictions applicable to a video surveillance warrant. In particular, the warrant may only be executed by a police officer, peace officer or district attorney, or a person acting pursuant to such an official's direction, and it may not authorize surveillance of a specific person for any period longer than 30 days (or until the objective of the surveillance is achieved, if sooner).

Proposed Section 695.15

This section describes the circumstances under which a video surveillance warrant may issue. *First*, it must be upon a proper application. *Second*, there must be probable cause to believe that the person who will be the object of video surveillance is committing or is about to commit an offense. *Third*, there must be probable cause to believe that activity related to the commission of such offense will be observed through video surveillance. *Fourth*, normal investigative procedures, and wiretapping procedures as well, must first be exhausted unsuccessfully or demonstrated to be unavailing if attempted. *Fifth*, there must be probable cause to believe that the place where video surveillance is to be conducted is being used in connection with the offense or is somehow linked with the person to be subject to such surveillance.

Proposed Section 695.20

This section prescribes the contents of an application for a video surveillance warrant. Such an application must be made *ex parte* and in writing.

Proposed Section 695.25

This section provides that a judge or justice may grant an application and issue the video surveillance warrant, deny the application, or require the applicant to furnish additional testimony or documentary evidence in support of the application.

Proposed Section 695.30

This section describes the form and content of a video surveillance warrant. Required are: specific information concerning the issuance of the warrant (applicant, court, etc.); the identity of the person(s) to be subject to such surveillance; descriptions of the place(s) to be subject to such surveillance, the activity sought to be observed and the offense to which it relates; the identity of the person(s) who will conduct the surveillance; specification as to time period during which surveillance is authorized; a minimization provision; and, if necessary, express authorization to make secret entry upon premises to install any equipment required to conduct surveillance.

Proposed Section 695.35

This section expressly provides that a video surveillance warrant must be executed according to its terms, and any surveillance thereunder must cease upon termination of the authorization in the warrant.

Proposed Section 695.40

This section, substantially similar to section 700.40, authorizes issuance of an order of extension of a video surveillance warrant. The extension may not exceed 30 days, and is available only upon a proper application (which must satisfy the same requirements as the initial application for a warrant) supplemented by a summary of the activities observed through surveillance to date and an explanation for the failure thus far to achieve the warrant's objective.

Proposed Section 695.45

This section, substantially similar to section 700.50, provides that the judge or justice who issues a video surveillance warrant may require periodic progress reports. It also requires that, upon termination of authorized surveillance, all tapes or records shall be made available to the judge or justice who issued the warrant therefor and sealed under his directions. Within 90 days of the termination of a video surveillance warrant (or an extension order), written notice of particulars relating to its issuance and its execution must be served upon persons named in the warrant. Thereafter, any person so served may, in the court's discretion, inspect tapes or records or the video surveillance warrant (and any extension orders) or applications therefor.

Proposed Section 695.50

This section, substantially similar to section 700.55 provides for the custody of applications for video surveillance warrants and the warrants, if any, issued by a judge or justice.

Proposed Section 695.55

This section, substantially similar to section 700.65, regulates disclosure and use of information derived from authorized video surveillance.

Proposed Section 695.60

This section, substantially similar to section 700.70, provides for the exclusion at trial of the contents of any recording made pursuant to a video surveillance warrant, and any evidence derived therefrom, unless the prosecutor serves defendant with a copy of the video surveillance warrant and the application therefor within 15 days following arraignment. The court may, however, upon a showing of good cause and a finding of no prejudice to defendant, extend the 15 day period.

We are not unmindful of the distinctly Orwellian overtones of this proposal. In the surreptitious viewing and recording of a private person's activities, there looms the spectre of "Big Brother" and all of the abuses so vividly portrayed in that classic work of fiction, *1984*. We point out, however, that this proposal would not operate to permit video surveillance; rather, it is intended to circumscribe its use as an investigative technique by police and prosecutors in a fashion designed to safeguard the rights and privacy of the public.

In the *Teicher* case, a unanimous Court of Appeals declared that "a warrant may issue to authorize the video taping of evidence to be admitted at a subsequent [criminal] trial, provided certain procedures are followed and certain safeguards are observed." 52 NY 2d at 642. The defendant there, a dentist, had been convicted of sexually abusing two of his female patients while they were sedated. On appeal, defendant had contended that the videotape of one of his patient's visits, recorded by a camera secreted in a treatment room pursuant to a warrant, should not have been admitted into evidence.

Defendant's convictions were affirmed by the Court of Appeals, over the defendant's contention that Title III of the Federal Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. §§2510-2520) precludes electronic surveillance in cases of sexual abuse arising out of the victim's incapacity to consent because the offense is not among those crimes enumerated in subdivision 2 of 18 U.S.C. §2516. *See, People v. Shapiro*, 50 NY 2d 747 (1980). The Federal wiretapping statute, the Court held, does not pre-empt State law in the field of video electronic surveillance, for it does not apply to — nor does it prohibit — the type of surveillance challenged.

More importantly, the *Teicher* Court rejected defendant's argument that video surveillance is so intrusive that it must be prohibited on the ground that it is unreasonable *per se* under the Fourth Amendment. The Court wrote: ".....the Fourth Amendment does not mandate an absolute ban on video surveillance any more than it mandates a total prescription on electronic eavesdropping." 52 NY2d at 653. Moreover, the warrant used in *Teicher*, although improvised because of the absence of statutory guidelines relating to application therefor and to proper form and content, nonetheless met the constitutional requirements outlined for aural eavesdropping in *Berger v. New York*, 388 U.S. 41 (1967), and *Katz v. United States*, 389 U.S. 347 (1967), which the Court of Appeals now declares to be equally applicable to video electronic surveillance.

Although upholding video surveillance in *Teicher*, the Court of Appeals expressly limited its opinion, and the guidance to be drawn from it:

"As we have stressed, the constitutional requirements outlined for eavesdropping in *Berger v. New York* (388 U.S. 41, *supra*), and *Katz v. United States* (389 U.S. 347, *supra*) are equally applicable to the area of video surveillance. While we have discussed several of these requirements in the instant case, our opinion should not be construed as an inventory of each of the necessary elements for such a warrant. The degree of intrusiveness inherent in video electronic surveillance demands unswerving adherence to each of the limitations placed upon the use of this device. *Moreover, because the use of this investigative technique poses a threat to the privacy of citizens, legislative scrutiny of the field and the enactment of specific guidelines would appear to be in order.*" 52 NY 2d at p. 656. (emphasis supplied)

This proposal would implement the Court's suggestion. It prescribes strict conditions to be met before a judge may issue a warrant authorizing video surveillance, and equally strict procedures to be followed in the warrant's execution. Significantly, it authorizes issuance of a video surveillance warrant only as a last resort, when it is clear that eavesdropping, as well as all normal investigative techniques have failed to produce evidence, or would fail if tried. *See*, proposed §659.20(2)(d). The *Berger/Katz* standards as to eavesdropping are embraced; accordingly, probable cause, specificity and minimization standards have been included and patterned after those set forth in Article 700 of the Criminal Procedure Law [eavesdropping warrants]. Provisions for recording, extension orders, notice, sealing, and the disclosure and use of information derived from the video surveillance have also been included, likewise paralleling those prescribed by Article 700.

AN ACT

To amend the criminal procedure law, in relation to securing evidence by use of video surveillance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article six hundred ninety five, to read as follows:

Article 695—VIDEO SURVEILLANCE WARRANTS

§*695.05 Video surveillance warrants; definition of terms.*

§*695.10 Video surveillance warrants; in general.*

§*695.15 Video surveillance warrants; when issuable.*

§*695.20 Video surveillance warrants; application.*

§*695.25 Video surveillance warrants; determination of application.*

§*695.30 Video surveillance warrants; form and content.*

§*695.35 Video surveillance warrants; manner and time of execution.*

§*695.40 Video surveillance warrants; order of extension.*

§*695.45 Video surveillance warrants; progress report and notice.*

§*695.50 Video surveillance warrants; custody of warrant, application and recordings.*

§*695.55 Video surveillance warrants; disclosure and use of information; order of amendment.*

§*695.60 Video surveillance warrant; notice before use of evidence.*

§*695.05 Video surveillance warrants; definition of terms.*

As used in this article, the following terms have the following meanings:

1. "Video surveillance" means the intentional visual observation of a person by means of a television camera or other similar electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or videotape, and under circumstances whereby such observation, in the absence of a video surveillance warrant, infringes upon such person's reasonable expectation of privacy or otherwise violates such rights as such person may derive from the constitution of this state or of the United States.

2. "Video surveillance warrant" means an order issued by a justice authorizing video surveillance of a specified person.

3. "Justice", except as otherwise provided herein, means any justice of an appellate division of the judicial department in which the video surveillance warrant is to be executed, or any justice of the supreme court of the judicial district in which the video surveillance warrant is to be executed, or any county court judge of the county in which the video surveillance is to be executed.

4. "Exigent circumstances" means conditions requiring the preservation of secrecy, and whereby there is a reasonable likelihood that a continuing investigation would be thwarted by alerting any of the persons subject to surveillance to the fact that such surveillance had occurred.

5. "Law enforcement officer" means any police officer, peace officer or district attorney.

6. "Specified offense" means any of the penal law or an attempt to commit any such felony.

§695.10 Video surveillance warrants; in general. 1. Under circumstances prescribed in this article, a justice may issue a video surveillance warrant upon ex parte application of a district attorney or the attorney general.

2. A video surveillance warrant may only be executed by a law enforcement officer or a person acting pursuant to his direction or in cooperation with him.

3. No video surveillance warrant may authorize or approve the video surveillance of any specified person for any period longer than is necessary to achieve the objective of the authorization, or in any event longer than thirty days.

§695.15. Video surveillance warrants; when issuable. A video surveillance warrant may issue only:

1. Upon an appropriate application made in conformity with this article; and

2. Upon probable cause to believe that a particularly described person is committing or is about to commit a specified offense; and

3. Upon probable cause to believe that a particular activity related to the commission of the specified offense will be observed through the use of video surveillance; and

4. Upon a showing that normal investigative procedures, and those procedures authorized by article seven hundred, have been tried and have failed, or reasonably appear to be unlikely to succeed if tried, or to be too dangerous to employ; and

5. Upon probable cause to believe that the place where the video surveillance is to be conducted is being used, or is about to be used, in connection with the commission of the specified offense, or is leased to, listed in the name of, or commonly used by such person.

§695.20 Video surveillance warrants; application.

1. An ex parte application for a video surveillance warrant must be made to a justice in writing, and must be subscribed and sworn to by the application therefor.

2. The application must contain : (a) The identity of the applicant and a statement of the applicant's authority to make such application; and

(b) A particular description of the place or places where the video surveillance is to be conducted, and the person or person whose activities are sought to be observed.

(c) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that a video surveillance warrant should be issued, including a statement of facts supporting a finding of probable cause to believe the matters set forth in subdivisions two, three and five of section 695.15.

(d) A full and complete statement of facts establishing that normal investigative procedures, and those procedures authorized by article seven hundred, have been tried and have failed, or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ, to obtain the evidence sought; and

(e) A statement of the period of time for which the video surveillance is required to be maintained. If the nature of the investigation is such that the authorization for video surveillance should not automatically terminate when the described type of activity has been first observed, a particular description of facts establishing probable cause to believe that additional activity of the same type will occur thereafter; and

(f) A full and complete statement of facts concerning all previous applications, known to the applicant, for a video surveillance warrant involving any of the same persons or places specified in the application, and the action taken by the justice on each such application.

3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described, and the application must contain facts establishing the existence and reliability of the informants or the reliability of the information supplied by them. The application must also state, so far as possible, the basis of the informant's knowledge or belief. Affidavits of persons other than the applicant may be submitted in conjunction with the application if they tend to support any fact or conclusion alleged therein. Such accompanying affidavits may be based either on personal knowledge of the affiant, or information and belief with the source thereof and the reason therefor specified.

§695.25 Video surveillance warrants; determination of application. 1. If the application conforms to section 695.20, the justice may require the applicant to furnish additional testimony or documentary evidence in support of the application. He may examine, under oath, any person for the purpose of determining whether grounds exist for the issuance of the warrant pursuant to section 695.15. Any such examination must be either recorded or summarized in writing.

2. If the justice determines on the basis of facts submitted by the applicant that grounds exist for the issuance of a video surveillance warrant pursuant to section 695.15, the justice may grant the application and issue a video surveillance warrant, in accordance with section 695.30.

3. If the application does not conform to section 695.20, or if the justice is not satisfied that grounds exist for the issuance of a video surveillance warrant, the application must be denied.

§695.30 Video surveillance warrants; form and content. A video surveillance warrant must contain: 1. The name of the applicant, date of issuance, and the subscription and title of the issuing justice; and

2. The identity of the person or persons, whose activities are to be subject to video surveillance; and

3. The place or places to be subject to video surveillance; and

4. A particular description of the activity sought to be observed, and a statement of the specified offense to which it relates; and

5. The identity of the person or persons authorized to conduct the video surveillance; and

6. The period of time during which the video surveillance is authorized, including a statement as to whether or not it shall automatically terminate when the described activity has been first observed; and

7. A provision that the authorization for video surveillance shall be executed as soon as practicable, shall be conducted in such a way as to minimize the surveillance of activities not specifically sought, by the terms of the warrant, to be observed and must terminate upon attainment of the authorized objective, or in any event in thirty days; and

8. An express authorization to make secret entry upon a private place or premises to install any instrument, device or equipment necessary to conduct video surveillance, if such entry is necessary to execute the warrant.

§695.35 Video surveillance warrants, manner and time of execution. 1. A video surveillance warrant must be executed according to its terms by the person or persons authorized therein.

2. Upon termination of the authorization in the warrant, video surveillance as provided therein must cease and any instrument, device or equipment installed for such purpose must be removed or permanently inactivated as soon as practicable. Entry upon a private place or premise for the removal or permanent inactivation of such instrument, device or equipment is deemed to be authorized by the warrant.

3. Any activity observed video surveillance as means authorized by this article must be recorded. The recording of such activity must be done in such a way as will protect the recording from editing or other alterations.

§695.40 Video surveillance warrants; order of extension. Any time prior to the expiration of a video surveillance warrant, the applicant may apply to the issuing justice, or, if he is unavailable, to another justice, for an order of extension. The period of extension shall be no longer than the justice deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. The application for an order of extension must conform in all respects to the provisions of section 695.20 and, in addition, must contain a statement summarizing the activities thus far observed through the video surveillance, together with a reasonable explanation for the failure to achieve completely the warrant's authorized objective. The provisions of sections 695.15 and 695.25 are applicable in the determination of such determination. The order of extension must conform in all respects to the provisions of section 695.30. In the execution of such order of extension the provisions of section 695.35 are applicable.

§695.45 Video surveillance warrants; progress reports and notice. 1. A video surveillance warrant may require reports to be made to the issuing justice showing what progress has been made toward achievement of the authorized objective and the need for continued video surveillance. Such reports shall be made at such intervals as the justice may require.

2. Immediately upon the expiration of the period of a video surveillance warrant, the records made pursuant to subdivision three of section 695.35 must be made available to the issuing justice and sealed under his directions.

3. Within a reasonable time, but in no case later than ninety days after termination of a video surveillance warrant, or expiration of an extension order, except as otherwise provided in subdivision four, written notice of the fact and date of the issuance of the video surveillance warrant, and of the period of authorized video surveillance, and of the fact that during such period activities of any person or persons were or were not observed through such surveillance, must be personally served upon each person named in the warrant and such other parties to the observed activities as the justice may determine in his discretion is in the interest of justice. The justice, upon the filing of a motion by any person served with such notice, may in his discretion make available to such person or his counsel for inspection such portions of the records made pursuant to subdivision three of section 695.35, any video surveillance warrant or order of *extension and any applications therefor as the justice determines to be in the interest of justice.*

4. On a showing of exigent circumstances to the issuing justice, the service of the notice required by subdivision three may be postponed by order of the justice for a reasonable period of time. Renewals of an order of postponement may be obtained on a new showing of exigent circumstances.

§695.50 Video surveillance warrants; custody of warrants, applications and recordings. 1. Applications made and warrants issued under this article shall be sealed by the justice. Any video surveillance warrant, together with a copy of papers upon which the application is based, shall be delivered to and retained by the applicant as authority for the surveillance authorized therein. A copy of such video surveillance warrant, together with all the original papers upon which the application was based, must be retained by the justice issuing the same, and, in the event of the denial of an application for such a video surveillance warrant, a copy of the papers upon which the application was based must be retained by the justice denying the same. Such applications and warrants may be disclosed only upon a showing of good cause before a court and may not be destroyed except on order of the issuing or denying justice, and in any event must be kept for ten years.

2. Custody of the recordings made pursuant to subdivision three of section 695.35 may be wherever the justice orders. They may not be destroyed except upon an order of the justice who issued the warrant and in any event must be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subdivision one and two of section 695.55 for investigations.

§695.55 Video surveillance warrants; disclosure and use of information; order of amendment. 1. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any recording of an observed activity, or evidence derived therefrom, may disclose such contents to another law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

3. Any person who has received, by any means authorized by this article, any information concerning an activity, or evidence derived therefrom, observed in accordance with the provisions of this article, may dosclose that activity or such derivation evidence while giving testimony under oath in any criminal proceeding in any court or in any grand jury proceeding; provided however, that the presence of the seal provided for by subdivision two of section 695.45, or a satisfactory explanation of the absence thereof, shall be a prerequisite for the use or disclosure of any activity or evidence derived therefrom.

4. When a law enforcement officer who, by any means authorized by this article, records an activity which was not otherwise anticipated and which constitutes evidence of any crime that has been, is being or is about to be committed, the contents of such recording, and evidence derived therefrom, may be disclosed or used as provided in subdivisions one and two. Such contents and any evidence derived therefrom may be used under subdivision three when a justice amends the video surveillance warrant to include such contents. The application for such amendment must be made by the applicant as soon as practicable. If the justice finds that such contents were recorded in accordance with the provisions of this article, he may grant the application.

§695.60 Video Surveillance warrants; notice before use of evidence. The recording of any activity, or evidence derived therefrom, may not be received in evidence or otherwise disclosed upon a trial of a defendant unless the people, within fifteen days after arraignment and before the commencement of the trial, furnish the defendant with a copy of the video surveillance warrant, and accompanying application, under which recording was authorized or approved. This fifteen day period may be extended by the trial court upon good cause shown if it finds that the defendant will not be prejudiced by the delay in receiving such papers.

§2. This act shall take effect on the sixtieth day next succeeding the date on which it shall have become a law.

R. Separation of Jury During Deliberations.

It is recommended that section 310.10 of the Criminal Procedure Law be amended to authorize a court to permit a deliberating jury to separate temporarily, including overnight and on weekends and holidays. This would facilitate and encourage jury service, reduce the potentially coercive impetus to arrive at a prompt verdict and save the expense necessitated by prolonged sequestration in cases in which there is no likelihood of jury tampering or influence.

Section 310.10 now provides that a deliberating jury "must be continuously kept together under the supervision of a court officer or court officers" or other personnel. This requires that deliberating jurors be kept in hotel rooms or other accommodations, fed and guarded during deliberations. This rule is in marked contrast to the more flexible approach employed in the federal courts, where sequestration is within the court's discretion.

Our proposal would amend New York's rigid rule by allowing dispersal when the court so authorizes. Dispersal should be the rule rather than the exception. In most cases the jury is not sequestered during the trial itself, and the possibility that the jurors defy the court's instructions and read about or discuss the case with outsiders, or that the jurors will be tampered with, should be no greater than the deliberations. The possibility of exposure to news reports may be less during deliberations when the media no longer have any new evidence to report.

It is undisputed that this proposal would have a favorable impact on the State budget. An evaluation of costs of sequestering juries has indicated that its enactment could result in a saving of approximately $1,200 to $1,500 for each day a jury is not sequestered when it normally would have been, and the total potential savings in expenses for meals, lodging and transportation for jurors and overtime pay for court personnel could exceed $1,000,000.

AN ACT

To amend the criminal procedure law, in relation to authorizing the temporary separation of a deliberating jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 310.10 of the criminal procedure law, as amended by chapter two hundred fourteen of the laws of nineteen hundred seventy-four, is amended to read as follows:

§310.10 Jury deliberation; requirement of; where conducted.

1. Following the court's charge, the jury must retire to deliberate upon its verdict in a place outside the courtroom. It must be provided with suitable accommodations therefor and must, *except as otherwise provided in subdivision two*, be continuously kept together under the supervision of a court officer or court officers. In the event such court officer or court officers are not available, the jury shall be under the supervision of an appropriate public servant or public servants. Except when so authorized by the court or when performing administerial duties with respect to the jurors, such court officers or public servants, as the case may be, may not speak to or communicate with them or permit any other person to do so.

2. At any time after the jury has commenced its deliberations, the court may declare the deliberations to be in recess and may thereupon direct the jury to suspend its deliberations and to separate for a reasonable period of time to be specified by the court, including Saturdays, Sundays and holidays. Before each recess, the court must admonish the jury as provided in section 270.40 and direct it to resume its deliberations when all twelve jurors have reassembled in the designated place at the termination of the declared recess.

§2. This act shall take effect immediately.

III. New or Modified Measures

A. Involuntarily Made Statements.

It is recommended that section 60.45, 710.20 and 710.70 of the Criminal Procedure Law be amended to clarify that a defendant in a criminal case may not have the question whether his confession was obtained in violation of his rights under *Miranda v. Arizona* submitted to the jury.

The Court of Appeals has recently announced that a trial court must read these statutes literally and must submit the question of a confession's voluntariness under *Miranda* to a jury. *People v. Graham*, 55 NY 2d 144 (1982). Apparently, this decision was not rendered without misgivings, however, as both the plurality and concurring opinions invited the attention of the Advisory Committee and the Legislature to the matter of a statutory revision. Judge Wachtler, in particular, expressed his concern at the absence of any rational explanation for the requirement of a jury submission, pointing out that it is mandated neither by *Miranda* nor the New York State Constitution. *People v. Graham, supra*, at p. 153 (Wachtler, J., concurring).

Echoing Judge Wachtler, it is the view of the Advisory Committee that *Graham* pinpoints an anomaly in the current statutory scheme and that neither the draftsmen of the CPL nor the Legislature ever intended that *Miranda* issues be litigated before a jury. Those issues involve questions of law, and, like search and seizure questions arising under the Fourth Amendment, are more suitable for judicial resolution. Rather, the statutory scheme was designed to be of more limited scope, bringing before a jury only true involuntariness (*viz.*, involving some form of duress) claims. Accordingly, it is the purpose of this proposal to eliminate the anomaly.

This proposal, recommended last year as well, has been changed slightly to clarify that an unconstitutionally obtained statement includes a statement that was made involuntarily.

AN ACT

To amend the criminal procedure law, in relation to involuntarily made statements

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 60.45 of the criminal procedure law is amended to read as follows:

§60.45 Rules of evidence; admissibility of statements of defendants. 1. Evidence of a written or oral confession, admission, or other statement made by a defendant with respect to his participation or lack of participation in the offense charged, may not be received in evidence against him in a criminal proceeding if such statement was involuntarily made *or otherwise unconstitutionally obtained*.

2. A confession, admission or other statement is "involuntarily made" by a defendant when it is obtained from him:

(a) By any person by the use or threatened use of physical force upon the defendant or another person, or by means of any other improper conduct or undue pressure which impaired the defendant's physical or mental condition to the extent of undermining his ability to make a choice whether or not to make a statement; or

(b) By a public servant engaged in law enforcement activity or by a person then acting under his direction or in cooperation with him [;

(i)] by means of any promise or statement of fact, which promise or statement creates a substantial risk that the defendant might falsely incriminate himself [; or

(ii) in violation of such rights as the defendant may derive from the constitution of this state or of the United States].

3. A confession, admission or other statement is "unconstitutionally obtained" from a defendant when it is obtained in violation of such rights as he may derive from the constitution of this state or of the United States.

§2. Subdivision three of section 710.20 of such law amended to read as follows:

3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made *or otherwise unconstitutionally obtained*, within the meaning of section 60.45; or

§3. The last unnumbered paragraph of section 710.70 of such law is amended to read as follows:

Nothing contained in this article, however, precludes a defendant from attempting to establish at a trial that evidence introduced by the people of a pre-trial statement made by him should be disregarded by the jury or other trier of the facts on the ground that such statement was involuntarily made within the meaning of *subdivision two of* section 60.45. Even though the issue of the admissibility of such evidence was not submitted to the court, or was determined adversely to the defendant upon motion, the defendant may adduce trial evidence and otherwise contend that the statement was involuntarily made. In the case of a jury trial, the court must submit such issue to the jury under instructions to disregard such evidence upon a finding that the statement was involuntarily made.

§4. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

B. Discharge of Sworn Jurors from the Jury Box and Courtroom.

It is recommended that subdivision three of section 270.15 of the Criminal Procedure Law be amended to permit the court, in its discretion and without the consent of counsel, to remove sworn jurors from the jury box or the jury room.

Under current law, the following procedures are observed during the *voir dire* in a criminal case: (1) the jury box is filled with at least 12 prospective jurors from the panel, all of whom must then be sworn; (2) the parties examine these prospective jurors regarding their qualifications to serve; (3) the parties exercise their challenges; (4) jurors who are challenged are excluded from service and those not challenged are sworn as trial jurors; and (5) the court may then order that the excluded persons be replaced by an equal number of additional prospective jurors from the panel, or with the parties' consent, order that the sworn jurors be seated elsewhere in the courtroom or altogether removed therefrom, and that the jury box be filled anew with prospective jurors from the panel.

Our proposal would eliminate the parties' right to determine whether sworn jurors may be removed from the jury box while the *voir dire* continues. It is prompted by concerns that the already slow and expensive process of jury selection in a criminal case can be slowed even further by a party's occasional refusal to consent to removal of sworn jurors from the jury box. This slows down the juror selection process by reducing the number of prospective jurors who may be examined at any one time and causes considerable inconvenience to the jurors already sworn, who must continue to sit through a selection process that already has ended as to themselves. While refusal occurs only rarely, we believe that, in the face of its disruptive impact on proceedings and the inconvenience it can cause the court, persons in the jury pool and the other parties, it ought not to be allowed to happen at all.

AN ACT

To amend the criminal procedure law, in relation to selection of jurors

The People of the State of New York, represented in

Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 270.15 of the criminal procedure law, as amended by chapter three hundred one of the laws of nineteen hundred eighty-one, is amended to read as follows:

3. The court may thereupon direct that the persons excluded be replaced in the jury box by an equal number from the panel or, in its discretion [with consent of the parties], direct that all sworn jurors be removed from the jury box and [be replaced] *that the jury box be occupied* by such *additional* number *of persons from the panel* as the court shall direct. Sworn jurors who are removed from the jury box as provided herein shall be seated elsewhere in the courtroom separate and apart from the unsworn members of the panel [. Upon the consent of both parties, the presence of the sworn jurors in the courtroom during the remainder of jury selection may be waived in which case the sworn jurors] *or, in the court's discretion, they* may be removed to the jury room. The process of jury selection as prescribed herein shall continue until twelve persons are selected and sworn as trial jurors. The juror whose name was first drawn and called must be designated by the court as the foreman, and no special oath need be administered to him. If before twelve jurors are sworn, a juror already sworn becomes unable to serve by reason of illness or other incapacity, the court must discharge him and the selection of the trial jury must be completed in the manner prescribed in this section.

§2. This act shall take effect thirty days after it shall have become law.

C. Discharge of Alternate Jurors.

It is recommended that section 270.30 of the Criminal Procedure Law be amended to provide that alternate jurors may be discharged after a jury retires for deliberations, unless defendant consents in advance to replacement of any juror by an alternate juror should the need therefor arise.

As now written, section 270.30 gives defendant the right to refuse to consent to the discharge of alternate jurors, in which event the latter must be sequestered while the jurors deliberate a verdict. Incongruously, defendant may exercise this right even though he or she may have no intention of consenting to substitution of the alternates for jurors who become incapacitated or otherwise unable to continue to serve during the deliberation process. *See* CPL §270.35.

This proposal would empower a court to require defendant, at the time the jury retires to deliberate, to agree or disagree to the substitution of alternate jurors should there be need therefor. If defendant does not agree, the court then may discharge the alternates — thereby saving time and inconvenience to the alternate jurors and sparing the public fisc of the considerable costs of their sequestration.

AN ACT

To amend the criminal procedure law, in relation to alternate jurors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 270.30 of the criminal procedure law, as amended by chapter two hundred sixty-seven of ineteen the laws of nhundred seventy-nine, is amended to read as follows:

§270.30. Trial jury; alternate jurors. Immediately after the last trial juror is sworn, the court may in its discretion direct the selection of one or more, but not more than four additional jurors to be known as "alternate jurors". Alternate jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges for cause and must take the same oath as the regular jurors. After the jury has retired to deliberate, the court must either (1) with the consent of the defendant and the people, discharge the alternate jurors or (2) direct the alternate jurors not to discuss the case and must further direct that they be kept separate and apart from the regular jurors. *Notwithstanding the failure of the defendant to consent to the discharge of alternate jurors as provided in (1), the court may discharge the alternate jurors unless defendant consents in advance to replacement of any juror by an alternate juror should any of the grounds specified therefor in section 270.35 arise.*

§2. This act shall take effect thirty days after it shall have become a law.

D. Decision on Motion to Suppress Identification Testimony.

It is recommended that subdivision three of section 710.40 of the Criminal Procedure Law be amended to allow a court to defer the hearing and determination of a motion to suppress identification testimony until after the trial has commenced.

Under present law, all motions to suppress evidence must be decided before trial. In the context of a *Wade* hearing, this means that crime victims or other persons who will give identification testimony must make multiple court appearances. Apart from the great personal inconvenience this may occasion, which itself may have the effect of discouraging such persons from coming forward to testify at the time of trial, it also may expose them to efforts at intimidation. *See People v. Vargas*, 118 Misc.2d 477 (Sup. Ct. N.Y. Co. 1983).

This salutary proposal would permit a court, in its discretion and with the consent of the prosecutor, to minimize the number of court appearances an identification witness must make by postponing its hearing and determination of a *Wade* motion until after trial has commenced. In order to protect the defendant's rights, the hearing would be held outside the presence of the jury. The prosecutor's consent is necessary to offset the latter's loss of a right of appeal from an adverse decision on the *Wade* motion (*see* CPL §450.20(8)) once trial begins.

AN ACT

To amend the criminal procedure law, in relation to certain motions to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 710.40 of the criminal procedure law, as amended by chapter two hundred seventy-three of the laws of nineteen hundred seventy-seven, is amended to read as follows:

3. When the motion is made before trial, the trial may not be commenced until determination of the motion*; provided, however, that so much of a motion to suppress evidence as is based upon the ground specified in subdivision six of section 710.20 may, in the discretion of the court and with the consent of the people, be heard and determined, outside the presence of the jury, after commencement of trial.*

§2. This act shall take effect thirty days after it shall have become a law.

E. Applications for Court Orders Compelling Submission to Chemical Tests.

During its 1983 Session, the Legislature enacted procedures to permit law enforcement personnel to obtain a court order compelling a driver, under certain circumstances, to submit to a chemical test to ascertain the alcoholic or drug content of his blood. L. 1983, c.481. Under chapter 481, only Supreme Court justices, County Court judges and District Court judges were authorized to entertain applications and to grant such orders outside New York City. It is recommended that section 1194-a(3)(a) of the Vehicle and Traffic Law, as added by chapter 481, be amended to extend such authorization to all judges of local criminal courts outside New York City, so long as it is exercised by a judge sitting within the municipality in which: (i) the incident occurred, (ii) the chemical test is to be conducted or (iii) the accused is located.

This proposal would remedy an anomaly under current law whereby a judge of a local criminal court is permitted to issue a search warrant (including a search warrant upon oral application) and yet is denied authority to issue analogous orders compelling submission to chemical tests. At the same time, it will have the salutary effect of increasing the number of judges available to entertain applications for chemical test orders. Hence, section 1194-a(3)(f), requiring the Chief Administrator of the Courts to establish a schedule insuring that there are always a sufficient number of judges available to hear these applications, will not be necessary.

This proposal would also amend Vehicle and Traffic Law §1194-a(3)(c) to extend from 24 to 72 hours the time in which to file the transcript of an oral application for a chemical test order. The 24-hour requirement currently in effect is unduly burdensome, particularly where the record of an application must first be transcribed from a voice recording device or stenographic notes before it can be filed. Inasmuch as a court-ordered chemical test is conducted immediately after an oral application is granted, and filing of a transcript will still be required within a reasonably short period thereafter, this proposal will occasion no prejudice to the subject of the test and no appreciable increase in the likelihood that records will be tampered with.

AN ACT

To amend the vehicle and traffic law, in relation to applications for court orders compelling submission to chemical tests

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (a) and (c) of subdivision three of section eleven hundred ninety-four-a of the vehicle and traffic law, as added by chapter four hundred eighty-one of the laws of nineteen hundred eighty-three, are amended to read as follows:

(a) An application for a court order to compel submission of [a] *any* chemical test may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. *An application for a court order to compel submission to a chemical test may also be made to any city court judge, town justice or village justice in the city, town or village, respectively, in which (i) the incident occurred, (ii) the chemical test is to be conducted, or (iii) the accused is located.* Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

(c) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within [twenty-four] *seventy-two* hours of the issuance of the court order. If longhand notes are taken, the judge shall subscribe a copy and file it with the court within [twenty-four] *seventy-two* hours of the issuance of the order.

§2. Paragraph (f) of subdivision three of section eleven hundred ninety-four-a of such law is REPEALED.

§3. This act shall take effect immediately.

IV. Conclusion

The Committee will continue to meet regularly to study and discuss all significant proposals affecting criminal law and procedure. We express our gratitude to the Chief Administrative Judge and the Judicial Conference for their support in achieving our shared objective of improving the criminal law.

Respectfully submitted,

THE ADVISORY COMMITTEE ON
CRIMINAL LAW AND PROCEDURE

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February 15, 1984

1984 Report

of the

Family Court Advisory and Rules Committee

to the

Chief Administrator of the Courts

of the

State of New York

February 15, 1984

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The Family Court Advisory and Rules Committee is designated and its members appointed pursuant to section 212(b) of the Family Court Act, section 212(1)(q) of the Judiciary Law and section 80.1(b)(x) of the Administrative Delegations of the Chief Judge of the State of New York (22NYCRR).

Its mandate is to review and draft official forms for use in Family Court proceedings and to review and draft rules affecting Family Court proceedings, subject to approval and promulgation by the Chief Administrator of the Courts or the Chief Judge, as appropriate. In addition, the Committee, when so requested, reviews and drafts legislation affecting Family Court proceedings or involving family law for comment or introduction to the Legislature. The Committee also has been mandated to advise the Chief Administrator on matters of general policy affecting administration in the Family Courts.

The Committee, in keeping with this broad-ranging mandate and its past practices, continued during the year 1983 to review and draft legislation, to review and propose amendments to rules and to review, revise and draft official Family Court forms, as required.

Membership

The members of the Committee during the past year were: Family Court Judge Donald J. Corbett, Jr., Chairperson until October, 1983, when he was appointed to the Court of Claims; Judge Jack Turret, a member of the Committee appointed Chairperson in his place; Judge Arthur J. Abrams; Judge Gene L. Catena; Judge Hugh Ross Elwyn; Judge William L. Kellick, Jr.; Judge Shirley Wohl Kram, appointed during this period a Judge of the United States District Court, E.D.N.Y.; Judge Edward J. Mclaughlin; Judge Nicholas L. Pitaro, elected during this period to the Supreme Court; Judge Richard M. Palmer; Judge Aileen Haas Schwartz; Judge Alfred J. Weiner; Supreme Court justices Robert H. Wagner and Joseph B. Williams; and William G. O'Brien, Esq., a non-voting member of the Committee. Frank Boccio, Esq., served as consultant. In October, 1983, the following new members were appointed to the Committee: Judge Eugene M. Hanofee; Judge Mary Ann Killeen; Judge Kathryn McDonald; Judge Anthony K. Pomilio; Judge Patricia Collins; former Family Court Judge Nanette Dembitz; Marjory D. Fields, Esq.; and Peter Fiorella, Jr., Esq.

Rules Review and Revision

As a result of the enactment of chapters 920 and 926 of the laws of 1982 and chapter 398 of the Laws of 1983, all effective July 1, 1983, article 7 of the Family Court Act no longer applies to proceedings involving juvenile delinquents.

Instead, article 7, with some amendments, pertains solely to persons in need of supervision proceedings, and new article 3 was enacted related to proceedings involving juvenile delinquents. Consequently, the Uniform Family Court Rules in effect prior to July 1, 1983, implementing article 7 of the Family Court Act (22 NYCRR 2507.1 through 2507.10) required amendment, and new rules implementing article 3 were needed.

The Subcommittee on Rules, under the Chairmanship of Judge Aileen Haas Schwartz, undertook, with the assistance of staff, to draft new and amended rules. These rules were drafted after preliminary consultation with the full Committee to establish a general direction for the actual drafting and after consideration of certain specific issues which emerged upon analysis of the statutory changes.

After review by the Committee and upon approval by Counsel, the proposed rules were circulated for comment to the New York State Division of Probation, the New York City Department of Probation, the Family Court Division of the New York City Office of the Corporation Counsel, all of the Legal Aid Societies who provide law guardian representation, the New York State Division for Youth, the New York City Department of Juvenile Justice, the Mayor's Office of Coordinator of Criminal Justice in New York city, a representative of the State Association of District Attorneys and a representative of the State Association of County Attorneys. These rules then were promulgated by the Chief Administrative Judge on September 30, 1983, after consultation with and the advice and consent of the Administrative Board of the Courts, as new sections 2503.1 through 2503.8 (implementing FCA article 3), and 2507.1 through 2507.6 (implementing FCA article 7). Existing Uniform Family Court Rules 22 NYCRR 2507.1 through 2507.10 were repealed. All existing local Family court rules, insofar as they were inconsistent with the new rules, were superseded.

In addition, the Subcommittee continued its review of present Part 114 of the rules of the Chief Administrator of the Courts, pertaining to adoptions (formerly section 20.9 of the rules of the Administrative Board). This review is directly related to the continuing Committee review of adoption forms, which will be outlined hereafter.

Preparation of Official Family Court Forms

The enactment of the new Code of Procedure for juvenile delinquency proceedings and the amendment of article 7 relating to PINS proceedings necessitated the preparation and promulgation of an entirely new set of official forms to implement new article 3, as well as a review and revision of the existing article 7 forms. The Subcommittee on Forms under the chairmanship of Judge Gene L. Catena undertook the drafting of the necessary forms. As a result, in May of 1983, approximately 65 new and revised forms were prescribed by the Chief Administrator of the Courts as official forms for statewide use in article 3 and article 7 proceedings in the Family Courts. Copies were distributed to all Family Court judges and court clerks. The forms appear in the appendix of volume 22(C) of the New York Code of Rules and Regulations (22 NYCRR).

The Subcommittee is continuing its review of official adoption forms for use, when officially prescribed, in adoption proceedings in Family Courts and Surrogate's Courts.

Legislative Drafting and Review

The Committee, under the direction of Judge Alfred J. Weiner, Chairperson of the Subcommittee on Legislation, reviewed all bills introduced in the Legislature affecting Family Court or family law and advised the Chief Administrative Judge of its views. The Chief Administrative Judge, in turn, presented the views of the Committee to the Legislature.

In addition, at the request of the Office of Court Administration, the members of the Committee assisted in drafting two bills for introduction to the Legislature. One was enacted into law (a copy is attached as Appendix A):

Chapter 119. This chapter adds a new section 154-a to the Family Court Act to require that a copy of the petition initiating any proceeding in Family Court must be served upon the respondent at the time process is served or, if that is not practicable, upon the first court appearance by the respondent.

The other continues to be part of the 1984 legislative program of the Office of Court Administration.

S.5711 - A.4497. This bill, which has been introduced in several past legislative sessions, would repeal section 236 of the Family Court Act and section 4406 of the Education Law, and amend section 232(b) of the Family Court Act and section 4401 of the Education Law, to remove from the Family Court the residual jurisdiction over the special educational needs of handicapped children. This measure would place full responsibility for the educational needs of all handicapped children in the State Department of Education.

The following additional bills drafted by the Committee and offered for introduction by the Office of Court Administration constitute the 1984 legislative program of the Committee (copies and supporting memoranda are attached as Appendix B):

1. An omnibus bill amending various sections of articles 3 and 7 of the Family Court Act, which relate to proceedings involving alleged juvenile delinquents and persons in need of supervision. Although the new code of procedure for juvenile delinquency proceedings has been in effect only since July 1, 1983, various problems having an impact on Court administration have emerged suggesting the necessity for further amendments in order to improve the ability of the Family Court to handle proceedings under both articles. In addition, certain technical errors in the law have become apparent.

The following constitutes the specific changes to articles 3 and 7 contained in this measure:

Article 3 (Juvenile delinquency proceedings)

Sections 1 and 2 substitute the term "post-disposition" for the term "post-judgment" in FCA §301.3(1)(a) and (2)(b). This is the appropriate terminology consistent with other provisions of the Family Court Act.

Section 3 eliminates the exception of New York City to the venue provision in FCA §302.3(4), allowing juvenile delinquency cases to be transferred from one county to another after fact-finding. The flexibility to transfer cases is equally necessary within New York City. Moreover, the amendment would permit a uniform practice throughout the state.

Section 4 substitutes the word "chief administrator of the courts" for "state court administrator", since the former is the legally correct title.

Section 5 substitutes the phrase "if independent legal counsel is not available" for the phrase "if he is indigent" in FCA §305.2(7)(d), relating to a notice to a child of his or her right to counsel. The language of the amendment is consistent with that contained in FCA §§249 and 320.2(2) and, as in those sections, takes into account situations other than indigency.

Section 6 eliminates the requirement for rules of court in FCA §307.3(1) and (2), which concern the release of a child by a detention facility before a juvenile delinquency petition is filed. Since the statute already is explicit in listing the circumstances surrounding release, rules of court are superfluous. If additional conditions or prerequisites are to apply to the exercise of responsibility by administrators of detention facilities, they should be set by the legislature, not by court rule.

Section 7 eliminates the limitation in FCA §307.4(4)(a) that the court may not release a child from custody before a petition is filed, in a matter over which it determines it lacks jurisdiction unless the matter is one which " is not to be transferred to a criminal court". There is no provision in the Family Court Act for the transfer of any proceeding to a criminal court.

Section 8 clarifies FCA §312.1(2) to make it clear that it is the responsibility of the presentment agency, not the court, to serve respondent with a copy of the summons and petition in a juvenile delinquency proceeding. The presentment agency, as the agency now responsible for initiating an article 3 proceeding and presenting it through disposition, has been given broadened authority, which includes the responsibility for service of process. The same practice now applies in all Family Court proceedings to petitioners that are institutions and to individual petitioners who have legal representation.

Section 9 increases from ten to twenty days the time allowed in FCA §320.2(1) between the filing of a juvenile delinquency petition and the initial appearance [*i.e.*, arraignment] where the respondent is not detained. This would allow the court greater flexibility in calendaring these cases. The measure also adds a "good cause" exception to the requirement in FCA §320.2(3) that the initial appearance may be adjourned for no more than 72 hours or the next court day, which gives the court additional needed flexibility. Such flexibility is particularly necessary in those counties lacking full-time and readily available law guardians, where the appointment of counsel requires time. Finally, the proposed amendment to FCA §320.2(4) specifies that, in addition to notifying the presentment agency, the clerk of court shall notify the law guardian, if one has been previously appointed [*see* §307.4], of the date of the initial appearance. This notice will help to reduce the likelihood of adjournments.

Section 10 eliminates from FCA §320.5(4) the vague requirement that the clerk of court and the probation service "cooperate" in making available to the presentment agency records appropriate for use at an initial appearance. "Appropriate" records are always available to the presentment agency, and the word "cooperate" adds nothing to the court's responsibility. For clarity, the proposed amendment also adds the word "fingerprint" to characterize more clearly the records that must be returned to the presentment agency.

Section 11 adds a provision to FCA §325.1(2) excluding from the time limits for holding a probable cause hearing those probable cause hearings held for children detained before a petition is filed, thus clarifying an ambiguity which exists between FCA §§325.1 and 307.4(7).

Section 12 deletes from FCA §340.1(5) the explicit direction that the court not consider "calendar congestion or the status of the court's docket or backlog" as "special circumstances" in determining successive motions to adjourn a fact-finding hearing. This provision has no counterpart in the Criminal Procedure Law, upon which much of this code of juvenile delinquency procedure was modeled, and goes beyond present case law. Its inclusion is even less appropriate in Family Court proceedings, since the Family Court, more than any other, already is burdened by numerous mandatory statutory preferences greatly complicating calendar management.

Section 13 eliminates from FCA §340.2(3)(c) the exception of New York City from this provision, which allows the assignment of a proceeding to a judge other than the one who presided at the fact-finding hearing. Such flexibility is equally necessary in New York City. Moreover, the amendment would make the law uniform throughout the state.

Section 14 eliminates from FCA §346.1 the language which gives the court the burden of examining records and holding hearings to determine the adequacy or clarity of a removal order made after a plea or verdict in criminal court. Although the court clearly has the discretion to make any inquiry into the sufficiency of such a removal order that it deems necessary, the responsibility to assure that the order complies with the requirements of CPL §725.05 should rest in the first instance with the presentment agency and criminal court, rather than the Family Court. The proposed change would mean that, absent such compliance, the mere filing of an order of removal would not be deemed to satisfy the requirements of a fact-finding hearing. Unless it clearly fulfills the requirements of CPL §725.05, the Family Court judge may take such action as is deemed appropriate, including remanding the case to the criminal court.

Section 15 deletes from FCA §350.1(5) the explicit direction that the court not consider "calendar congestion or the status of the court's docket or backlog" as "special circumstances" in determining successive motions to adjourn a dispositional hearing in a juvenile delinquency proceeding. As was explained in the comments to §12 herein on the proposed amendment to FCA §340.1(5) concerning adjournments of fact-finding hearings, this provision has no counterpart in the Criminal Procedure Law, upon which much of the code of criminal delinquency procedure was modeled, and goes far beyond present case law. Its inclusion in Family Court is even less appropriate than in other courts, as the Family Court already is burdened by numerous mandatory preferences in the Family Court Act greatly complicating calendar management.

Section 16 adds a "good cause" exception to the requirement in FCA §354.1(4) that probation reports for dispositional hearings be submitted to the court at least five court days prior to the hearing. Probation departments throughout the state are having difficulty meeting this deadline, yet the court lacks the discretion to grant extensions.

The amendment also adds a requirement that the court make such reports available "forthwith" for inspection by the respondent and the presentment agency, thus limiting possible delay subsequent to the submission of the reports to the court.

Section 17 adds palmprints and photographs to FCA §354.1(4). These were inadvertently omitted from this subdivision but are consistently mentioned in the other subdivisions of this section.

Section 18 clarifies the procedures and requirements in FCA §355.3(1), (2) and (5) concerning extensions of placement:

(a) it requires that any supporting affidavits and reports must, like the petition, be filed 60 days before the expiration of the placement except for good cause shown, thus insuring that the court will have before it all appropriate and relevant material prior to the commencement of any hearing;

(b) it makes explicit the requirement that the petitioner, not the court, is responsible for providing notice of these proceedings; and

(c) it conforms the language of FCA §355.3(5) to that of FCA §1055(b)(iv) [the extension of placement procedure in article 10 proceedings], thus clarifying the circumstances under which a temporary order extending placement can be granted.

Article 7 (PINS proceeding)

Section 19 repeals FCA §723, which concerns duties arising after a private person takes a child into custody. FCA §722, which authorized such a taking into custody, was repealed by Chapter 920 of the Laws of 1982, since it was inapplicable to PINS. Under the circumstances, §723 is superfluous.

Section 20 makes changes in FCA §724(a) necessitated by the repeal of §723 and by the requirement of gender neutrality.

Section 21 substitutes the word "acts" in FCA §724(b)(ii) in the phrase "act occasioning the taking into custody" to reflect the requirement of §723 that a single act is insufficient to sustain a PINS petition. In addition, the word "child" is substituted for "his" to reflect the requirement for gender neutrality. The amendment also requires that the chief administrator of the courts, rather than the appellate divisions, designate facilities for the questioning of children, thus conforming article 7 to article 3 [FCA §305.2(4)(b)].

Section 22 eliminates from FCA §727 the requirement that there be rules of court setting criteria for the release of a child from detention before a petition is filed. This would conform to the amendment proposed for §307.3 as explained in §6 herein. The amendment also eliminates the reference to detention facilities being run by probation services, since that is no longer the case, and refers instead to the agencies authorized by specified statutes to operate these facilities.

Section 23 eliminates from FCA §728(b)(i) the incorrect reference to transferring PINS proceedings over which the court lacks jurisdiction to a criminal court. There is no provision in the Judiciary Law for the transfer of any proceeding to a criminal court. This would conform to the amendment recommended for §307.4(4)(a), as explained in §7 herein.

Section 24 eliminates from FCA §734(a)(ii) the authority of the probation service to make recommendations to the corporation counsel or the county attorney concerning the adjustment of a case; such recommendations are applicable only to delinquency proceedings and therefore have no place in article 7 PINS proceedings.

Section 25 eliminates from FCA §756(b) all references to extensions of placement of PINS; section 26 repeals FCA §756(c) concerning successive extensions of placement. In their place, an entirely new section on extensions of placement is substituted. *See* §27 hereafter.

Section 27 adds a new section, FCA §756-a, concerning requirements and procedures for extensions of placement in PINS proceedings. The new section conforms to the present provisions concerning extensions of placement in articles 3 [juvenile delinquency proceedings: §355.3] and 10 [child protective proceedings: §1055]. *See also* proposed amendments to §355.3 as explained in §18 herein.

Section 28 makes the effective date of the bill 60 days after it becomes law to allow adequate time for notice of the changes to be received by the courts, the agencies involved and the bar.

2. A bill amending article 3 of the Family Court Act to authorize the Court in juvenile delinquency proceedings to hold a consolidated dispositional hearing where more than one delinquency petition has been filed against a respondent resulting in the entry of more than one fact-finding order against him or her. The fact-finding hearings may have been held before different judges, and present law requires that the judge who presides at a fact-finding hearing must also preside at the dispositional hearing on that petition, with certain exceptions (FCA §340.2). Since any dispositional hearing involving the

same respondent invariably requires the presentation of the same evidence, the holding of separate dispositional hearings by different judges on each petition is likely to result in needless duplication of effort at great cost and inconvenience to the parties, the auxiliary services, the witnesses and the court. There is even the possibility of different judges entering conflicting dispositional orders for a single respondent.

Authorizing a court, in its discretion, to dispose of multiple petitions in a consolidated dispositional hearing would avoid repetitive effort by counsel, supportive investigatory and testing services and other witnesses. Moreover, it would assure the respondent and the community the prompt and consistent resolution of all pending petitions. Consolidated dispositional hearings in suitable delinquency cases in Family Court would markedly lessen the administrative and financial burden on the court and would conserve the use of personnel and other court resources. It also would benefit similarly the other agencies and services involved in these proceedings. Consolidated dispositional hearings could be usefully employed throughout the state, either in instances where multiple findings against the respondent have been made in a single county or where such findings have been made in different counties. The measure includes a requirement for notice to the respondent and the appropriate presentment agency and an opportunity to be heard.

The following constitute the specific changes contained in this measure:

> Section 1 amends FCA §302.3(4), a venue provision which allows cases to be transferred from one county to another after fact-finding, to eliminate the existing exclusion of New York City from its terms. The amendment is necessary in order to enable the courts in New York City to hold consolidated dispositional hearings. Moreover, the flexibility to transfer cases is equally useful within New York City as elsewhere, and eliminating this exception would permit practice to be uniform throughout the state.
>
> Section 2 amends FCA §340.2(2) to except petitions for which consolidated dispositional hearings are held from the requirement that the judge who makes the fact-finding order must be the one to make the dispositional order on that petition.
>
> Section 3 amends FCA §340.2(3)(c), the provision which sets forth the circumstances under which an assignment of a proceeding may be made to a judge other than the one who presided at the fact-finding hearing, to eliminate the exclusion of New York City from its terms. Such flexibility is equally necessary within New York City and eliminating the exception would make the law uniform throughout the state.
>
> Section 4 amends FCA §350.3 expressly to authorize the court to hold a consolidated dispositional hearing.
>
> Section 5 amends FCA §352.2 to require that a separate order of disposition must be entered for every petition disposed of in a consolidated dispositional hearing.

3. A bill amending section 513 of the Family Court Act to specify relevant factors which the court should consider in making an award of child support in a paternity proceeding after an order of filiation has been made. This would conform the language and guidelines of section 513 to that of sections 413 of the Family Court Act and 32(3) of the Domestic Relations Law, which were amended by chapter 362 of the laws of 1983 to incorporate the factors required by DRL §236-B(7) to be considered in making an award of child support in support proceedings. Since the factors considered in making child support awards in paternity proceedings are the same as those considered in making child support awards in other proceedings in which support may be awarded, the statutes should be made consistent.

4. A bill amending sections 4138-b and 4138-c of the Public Health Law, which were enacted last year as part of chapter 898 of the laws of 1983. This chapter established an information registry for adopted persons and the records of their adoptive and natural parents and set forth a procedure for providing these persons with certain specified "non-identifying" information concerning the adoption. The information is to be obtained by court personnel from the records of the court granting the adoption and the records of the licensed voluntary agency from which the adoption took place, if an agency was involved in the adoption.

The necessity for court personnel to identify the correct adoption proceeding, and to search for, list and transmit the numerous items of information required by the statute, will have a significant administrative impact on the courts. Moreover, the information would not be contained in the court record in most cases where a voluntary agency was involved in the adoption; the information would exist, if at all, in the agency's records.

With that in mind, the proposed measure was drafted to provide that where a voluntary agency was involved in the adoption, the court's responsibility would be limited to giving the Department of Health the name and address of the agency. The agency would then give the Department the required "non-identifying" information or release the information directly to the adoptee. The proposed measure also contains a technical change and clarifies the applicability of the sealing provisions of §114 of the Domestic Relations Law.

The following are the specific amendments contained in the measure:

Section 1 amends Public Health Law §4138-b(1), relating to the establishment of the adoption information registry for adoptions that take place prior to April 1984. It adds the term "adoption " in describing the types of records, in addition to birth records, to which the Commissioner of the Department of Health may have access, since the information sought by the Commissioner may be found in either or both types of records.

Section 1 also specifies that access to court adoption records must still be obtained in accordance with the provisions of Domestic Relations Law §114, which requires that adoption records be sealed and that access to them may be obtained only by court order. Since DRL §114 was not specifically amended or referred to in chapter 898, questions have been raised whether the access procedures of DRL § 114 apply to requests made by the Department of Health for information pursuant to Public Health Law §4138-b(1), or whether the law has superseded DRL §114. The courts have been advised to follow the access procedures of DRL §114, and they have been deeming a written request by the Department of Health pursuant to Chapter 898 as an application for an order to unseal the adoption record. Nonetheless, the section should be amended to include explicit reference to the applicability of DRL §114.

Section 2 amends Public Health Law §4138-b(4)(a) to limit the information gathering task of court personnel in instances where a voluntary agency was involved in the adoption, while leaving intact the present statutory scheme for transmittal of non-identifying information to the adoptee. In these cases, the court would provide to the Department of Health only the name and address of the authorized agency, as the non-identifying information specified in §4138-b(3) and sought by the Department is available, if anywhere, in the records of the agency, not in the records of the court.

Sections 3 and 4 of the measure amend Public Health Law §§4138-c(1) and 4138-c(4)(1), which use language identical to that in §4138-b to establish an adoption information registry and procedures relating thereto for adoptions that take place after April 1984. The amendments proposed for §4138-c track the language used in the amendments to §4138-b, described heretofore for sections 1 and 2 of the measure. The reasons in support of the amendments to §4138-c are the same as those described in sections 1 and 2 above.

Proposed Code of Evidence

Pursuant to a request from former Chief Administrative Judge Herbert B. Evans, the Committee examined and made a report with respect to the impact of the proposed Code of Evidence (S.334 - A.332) upon Family Court or family law practice, which has been submitted to Chief Administrative Judge Robert J. Sise. The Report (a copy of which is attached as Appendix C) comments on the code on an article-by-article basis, pointing out aspects that may have special meaning or present special problems when applied to Family Court proceedings or cases involving family law. Among the areas commented upon at some length are the proposed parent-child privilege, witnesses and hearsay evidence.

Review of Special Issues for Possible Legislative Recommendation

The Committee previously had forwarded to Judge Evans an outline of potential issues for presentation to the Temporary Commission to Recodify the Family Court Act for its consideration. That Commission expired as of December 31, 1983. The Committee reviewed those proposals on which the Commission did not act, and selected a list as worthy of further discussion. The following are those assigned to subcommittees for discussion and a written report:

Amendment of FCA §661 to eliminate the present requirement that Family court jurisdiction to grant letters of guardianship is limited to minors "under the jurisdiction of the court"; also to clarify whether the scope of the award of guardianship includes person and property.

Amendment of SSL §384-b, as it pertains to proceedings based on mental illness or retardation, to mandate the appointment of guardians ad litem.

Consideration of Family Court filiation proceedings (FCA article 5) with particular reference to: (a) the scope of the order of filiation (a status determination or determination of obligation to support); (b) requirement of notice to nonparty husband of mother of out-of-wedlock child; and (c) mandating appointment of law guardian for child.

Review of calendar preferences in FCA §153-c and requirements of FCA §216-c.

Role of Family Court in "equitable distribution" in light of constitutional amendment to Article 6 §26(f) of the Constitution permitting Family Court judges to be assigned as acting Supreme Court justices.

Clarification of "necessary party" status of strict Attorney in article 10 (child protective) proceedings.

Dated: February 15, 1984

Respectfully submitted

THE FAMILY COURT ADVISORY
AND RULES COMMITTEE

Honorable Jack Turret, *Chairman*
Hon. Arthur J. Abrams
Hon. Gene L. Catena
Hon. Patricia Collins
Honorable Nanette Dembitz
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Appendix A

FAMILY COURT—SERVICE OF PETITIONS

CHAPTER 119

Approved and effective May 23, 1983

AN ACT to amend the family court act, in relation to service of petitions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The family court act is amended by adding a new section one hundred fifty-four-a to read as follows:

§154-a. Service of petition. In every proceeding in family court, a copy of the petition filed therein shall be served upon the respondent at the time of service of process or, if that is not practicable, at the first court appearance by respondent.

§2. This act shall take effect immediately.

STATE OF NEW YORK

5711

1983-1984 Regular Sessions

IN SENATE

April 26, 1983

Introduced by Sen. STAVISKY — read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the family court act and the education law, in relation to providing for the education of handicapped children and to repeal section two hundred thirty-six of the family court act and section four thousand four hundred six of the education law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (b) of section two hundred thirty-two of the family court act, as added by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, is amended to read as follows:

(b) "Physically handicapped child" means a person under twenty-one years of age who [, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury or disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation, as provided in the education law,] *is handicapped by reason of a defect or disability, whether congenital or acquired by accident, injury or disease,* or is physically handicapped, as provided in section two thousand five hundred eighty-one of the public health law.

§2. Section two hundred thirty-six of such act is REPEALED.

§3. Subdivision one and paragraph a of subdivision two of section four thousand four hundred one of the education law, as amended by chapter fifty-three of the laws of nineteen hundred eighty, are amended to read as follows:

1. A "child with a handicapping condition" means*:*

a. a person under the age of twenty-one who is entitled to attend public schools pursuant to section thirty-two hundred two of this chapter, *or*

b. a person as defined by paragraph a of this subdivision who is not eligible for educational services pursuant to articles seventy-three, eighty-five, eighty-seven, or eighty-eight of this chapter, including those persons under the age of five not entitled to attend school without the payment of tuition pursuant to section three thousand two hundred two of this chapter, and who, because of mental, physical or emotional reasons can receive appropriate educational opportunities from special services and programs to include, but not limited to, transportation, and the special services and programs delineated in subdivision two of this section.

a. Special classes, *summer session programs,* transitional support services, resource rooms, home instruction, and special teachers to include itinerant teachers as provided by the schools of the district of residence with such terms and services to be defined by regulations of the commissioner.

§4. Section four thousand four hundred six of such law is REPEALED.

§5. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

REPEAL NOTE.—Section two hundred thirty-six of the family court act, proposed to be repealed by section two of this act, gives the family court jurisdiction over the educational needs of certain handicapped children. Section four thousand four hundred six of the education law, proposed to be repealed by section four of this act, prescribes the procedures to be followed in children with handicapping conditions proceedings in the family court. These sections would be rendered obsolete by the enactment of this measure which would place the educational needs of all handicapped children with the state education department.

4497

1983-1984 Regular Sessions

IN ASSEMBLY

March 1, 1983

Introduced by M. of A. STAVISKY, HALPIN, McCABE, BRANCA, HARENBERG, HOCHBRUECKNER — Multi-Sponsored by — M. of A. DUANE, W.J. RYAN — (at request of the Office of Court Administration — read once and referred to the Committee on Education

AN ACT to amend the family court act and the education law, in relation to providing for the education of handicapped children and to repeal section two hundred thirty-six of the family court act and section four thousand four hundred six of the education law relating thereto.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (b) of section two hundred thirty-two of the family court act, as added by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, is amended to read as follows:

(b) "physically handicapped child" means a person under twenty-one years of age who [, by reason of a physical defect or informity, whether congenital or acquired by accident, injury or disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation, as provided in the education law,] *is handicapped by reason of a defect or disability, whether congenital or acquired by accident, injury or disease,* or is physically handicapped, as provided in section two thousand five hundred eighty-one of the public health law.

§2. Section two hundred thirty-six of such act is REPEALED.

§3. Subdivision one and paragraph a of subdivision two of section four thousand four hundred one of the education law, as amended by chapter fifty-three of the laws of nineteen hundred eighty, are amended to read as follows:

1. A "child with a handicapping condition" means *;*

a. a person under the age of twenty-one who is entitled to attend public schools pursuant to section thirty-two hundred two of this chapter, *or*

b. a person as defined by paragraph a of this subdivision who is not eligible for educational services pursuant to articles seventy-three, eighty-five, eighty-seven, or eighty-eight of this chapter, including those persons under the age of five not entitled to attend school without the payment of tuition pursuant to section three thousand two hundred two of this chapter, and who, because of mental, physical or emotional reasons can receive appropriate educational opportunities from special services and programs to include, but not limited to, transportation, and the special services and programs delineated in subdivision two of this section.

a. Special classes, *summer session programs,* transitional support services, resource rooms, home instruction, and special teachers to include itinerant teachers as provided by the schools of the district of residence with such terms and services to be defined by regulations of the commissioner.

§4. Section four thousand four hundred six of such law is REPEALED.

§5. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

REPEAL NOTE.—Section two hundred thirty-six of the family court act, proposed to be repealed by section two of this act, gives the family court jurisdiction over the educational needs of certain handicapped children. Section four thousand four hundred six of the education law, proposed to be repealed by section four of this act, prescribes the procedures to be followed in children with handicapping conditions proceedings in the family court. These sections would be rendered obsolete by the enactment of this measure which would place the educational needs of all handicapped children with the state education department.

APPENDIX B

AN ACT

To amend the family court act, in relation to making certain technical changes with respect to the recodification of provisions concerning juvenile delinquency and persons in need of supervision effected by chapters nine hundred twenty and nine hundred twenty-six of the laws of nineteen hundred eighty-two and chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three and repealing certain provisions of such act relating thereto.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision one of section 301.3 of the family court act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> (a) all juvenile delinquency actions and proceedings commenced upon or after the effective date thereof and all appeals and and other [post-judgment] *post-disposition* proceedings relating or attaching thereto; and

§2. Paragraph (b) of subdivision one of section 301.3 of such law, as amended by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

> (b) all appeals and other [post-judgment] *post-disposition* proceedings commenced upon or after such effective date which relate or attach to juvenile delinquency actions and proceedings commenced or concluded prior to such effective date provided that, if application of such provisions in any particular case would not be feasible or would work injustice, the provisions of article seven pertaining to juvenile delinquency actions apply thereto, as such article seven read immediately prior to the effective date of this article.

§3. Subdivision four of section 302.3 of such law, as added by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

> 4. [In some cases heard outside of the city of New York, and except] *Except* for designated felony act petitions, after entering a finding pursuant to subdivision one of section 345.1, and prior to the commencement of the dispositional hearing the court may, in its discretion and for good cause shown, order that the proceeding be transferred to the county in which the respondent resides. The court shall not order such a transfer, however, unless it grants the respondent and the presentment agency an opportunity to state on the record whether each approves or disapproves of such a transfer and the reasons therefor. The court shall take into consideration the provisions of subdivision two and three of section 340.2 in determining such transfer.

§4. Paragraph (b) of subdivision four of section 305.2 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> (b) forthwith and with all reasonable speed take the child directly, and without his first being taken to the police station house, to the family court located in the county in which the act occasioning the taking into custody allegedly was committed, unless the officer determines that it is necessary to question the child, in which case he may take the child to a facility designated by the [state court administrator] *chief administrator of the courts* as a suitable place for the questioning of children and there question him for a reasonable period of time; or

§5. Paragraph (d) of subdivision seven of section 305.2 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> (d) of the child's right to have an attorney provided for him without charge if [he is indigent] *independent legal representation is not available.*

§6. The title and subdivisions one and two of section 307.3 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

> §307.3. [Rules of court authorizing release] *Release* before filing of petition.
>
> 1. [Rules of court shall authorize the] *The* agency responsible for operating a detention facility pursuan to section two hundred eighteen-a of the county law, five hundred ten-a of the executive law or other applicable provisions of law, [to] *shall* release a child in custody before the filing of a petition to the custody of his parents or other person legally responsible for his care, or if such legally responsible person is unavailable, to a person with whom he resides, when the events occasioning the taking into custody do not appear to involve allegations that the

child committed a delinquent act, unless there are special circumstances requiring his detention.

§7. Paragraph (a) of subdivision four of section 307.4 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> (a) the court does not appear to have jurisdiction [and the matter is not to be transferred to a criminal court], or

§8. Subdivision two of section 312.1 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> 2. Service of a summons and petition shall be made *by the presentment agency* by delivery of a true copy thereof to the person summoned at least twenty-four hours before the time stated therein for appearance.

§9. Subdivisions one, three and four of section 320.2 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

> 1. If the respondent is detained, the initial appearance shall be held no later than seventy-two hours after a petition is filed or the next day the court is in session, whichever is sooner. If the respondent is not detained, the initial appearance shall be held as soon as practicable and, absent good cause shown, within [ten] *twenty* days after a petition is filed.
>
> 3. [The] *Except for good cause shown, the* initial appearance may be adjourned for no longer than seventy-two hours or until the next court day, whichever is sooner, to enable an appointed law guardian or other counsel to appear before the court.
>
> 4. The clerk of court shall notify the presentment agency *and the law guardian, if one has been previously appointed,* of the initial appearance date.

§10. Subdivision four of section 320.5 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> 4. At the initial appearance the presentment agency may introduce the respondent's previous delinquency findings entered by a family court. If the respondent has been fingerprinted for the current charge pursuant to section 306.1, the presentment agency may also introduce the fingerprint records maintained by the division of criminal justice services. [The clerk of court and the probation service shall cooperate with the presentment agency in making available the appropriate records.] At the conclusion of the initial appearance such *fingerprint* records shall be returned to the presentment agency and shall not be made a part of the court record.

§11. Subdivision two of section 325.1 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows :

> 2. [Such] *Except where a child is detained prior to the filing of a petition and a hearing has been held pursuant to section 307.4, such* probable-cause hearing shall be held within three days following the initial appearance or within four days following the filing of a petition, whichever occurs sooner.

§12. Subdivision five of section 340.1 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> 5. Successive motions to adjourn a fact-finding hearing shall not be granted in the absence of a showing, on the record, of special circumstances [; such circumstances shall not include calendar congestion or the status of the court's docket or backlog].

§13. Paragraph (c) of subdivision three of section 340.2 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> (c) [in cases heard outside the city of New York,] if it is not practicable for the judge to preside.

§14. Section 346.1 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

> Where the proceeding was commenced by the filing of an order of removal pursuant to a direction authorized by section 220.10, 310.85 or 330.25 of the criminal procedure law, the requirements of a fact-finding hearing shall be deemed to have been satisfied upon the filing of [the order and no further fact-finding hearing need be held; provided, however, that where any specification required by subdivision five of] *an order complying with* section 725.05 of the criminal procedure law [is not clear, the court may examine such records or hold such hearing as it deems necessary to clarify said specification].

§15. Subdivision five of section 350.1 of such law as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

5. Successive motions to adjourn a dispositional hearing beyond the limits enumerated in subdivision one or two shall not be granted in the absence of a showing, on the record of special circumstances [; special circumstances shall not include calendar congestion or the status of the court's docket or backlog].

§16. Subdivision four of section 351.1 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

4. All diagnostic assessments and probation and probation investigation reports shall be submitted to the court *at least five court days prior to the commencement of the dispositional hearing, except for good cause shown,* and made available by the court *forthwith* for inspection by the presentment agency and the respondent [at least five court days prior to the commencement of the dispositional hearing].

§17. Subdivision four of section 354.1 of such law, as amended by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

4. If, following the taking into custody of a person alleged to be a juvenile delinquent and the taking and forwarding to the division of criminal justice services of such person's fingerprints, *palmprints or photograph,* but prior to referral to the probation department or to the family court, an officer or agency [,] elects not to proceed further, such officer or agency shall serve a certification of such election upon the division of criminal justice services.

§18. Subdivision one of section 355.3 of such law, as amended by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, and subdivisions two and five of such section of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

1. In any case in which the respondent has been placed pursuant to section 353.3 the respondent, the person with whom the respondent has been placed, the commissioner of social services, or the division for youth may petition the court to extend such placement. Such petition *and any supporting affidavits or reports* shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown but in no event shall such petition *and any supporting affidavits or reports* be filed after the original expiration date.

2. The court shall conduct a hearing concerning the need for continuing the placement. The respondent ondent, the presentment agency and the agency with whom the rhas been placed shall be notified *by the petitioner* of such hearing and shall have the opportunity to be heard thereat. [If the petition is filed within sixty days prior to the expiration of the period of placement, the court shall first determine at such hearing whether good cause has been shown. If good cause is not shown, the court shall dismiss the petition].

5. [Subdivision two and three notwithstanding, the court] *Pending final determination of a petition to extend such placement filed in accordance with the provisions of this section, the court, for good cause shown,* may enter a temporary order extending a period of placement for a period not to exceed thirty days upon satisfactory written proof showing probable cause for continuing such placement and that a temporary order is necessary. Such temporary order shall not be renewable.

§19. Section 723 of such law is REPEALED.

§20. The title and subdivision (a) of section 724 of such law, as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

§724. Duties of police officer or peace officer after taking *a child* into custody [or on delivery by a private person].

(a) If a peace officer or a police officer takes *a child* into custody [or if a person is delivered to him under section seven hundred twenty-three], the officer shall immediately notify the parent or other person legally responsible for [his] *the child's* care, or the person with whom [he] *the child* is domiciled, that [he] *the child* has been taken into custody.

§21. Paragraph (ii) of subdivision (b) of section 724 of such law, is amended to read as follows:

(ii) forthwith and with all reasonable speed take the child directly, and without [his] *the child's* first being taken to the police station house, to the family court located in the county in which the [act] *acts* occasioning the taking into custody allegedly were done, unless the officer determines that it is necessary to question the child, in which case he may take the child to a facility designated by the [appropriate appellate division of the supreme court] *chief administrator of the courts* as a suitable place for the questioning of the children and there question [him] *the child* for a reasonable period of time; or

§22. Section 727 of such law, as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, as amended to read as follows:

§727. [Rules of court authorizing release] *Release* before filing of petition.

(a) [Rules of court shall authorize the probation service or the administrator] *The agency* responsible for operating a detention facility *pursuant to section two hundred eighteen-a of the county law, five hundred ten-a of the executive law or other applicable provisions of law,* [to] *shall* release a child in custody before the filing of a petition to the custody of his parents or other relative, guardian or legal custodian when the events occasioning the taking into custody appear to involve a petition to determine whether a person is in need of supervision rather than a petition to determine whether a person is a juvenile delinquent.

(b) [When rules of court under this section authorize a release, the] *A* release *in accordance with this section* may, but need not be conditioned upon the giving of a recognizance in accord with section seven hundred twenty-four (b)(i).

(c) If the [probation service] *agency responsible for operating the detention facility* for any reason does not release a child under this section, the child shall promptly be brought before a judge of the court, if practicable, and section seven hundred twenty-eight shall apply.

§23. Paragraph (i) of subdivision (b) of section 728 of such law is amended to read as follows:

(i) the court does not appear to have jurisdiction [and the matter is not to be transferred to a criminal court under the judiciary law]; or

§24. Paragraph (ii) of subdivision (a) of section 734 of such law, as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

(ii) attempt to adjust suitable cases before a petition is filed over which the court apparently would have jurisdiction. [The probation service may make a recommendation regarding adjustment of the case to the corporation counsel or county attorney and provide such information, including any record of previous adjustments and arrests, as it shall deem relevant, provided, however, the probation service shall not transmit or otherwise communicate to the corporation counsel or county attorney any statement made by the potential respondent to a probation officer.]

§25. Subdivision (b) of section 756 of such law, as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

(b) Placements under this section may be for an initial period of eighteen months [and the court in its discretion may, at the expiration of such period, make successive extensions for additional periods of one year each. The place in which or the person with which the child has been placed under this section shall submit a report at the end of the year of placement, making recommendations and giving such supporting data as is appropriate. The court on its own motion may at the conclusion of any period of placement hold a hearing concerning the need for continuing the placement]. In its discretion, the court may recommend restitution or require services for public good pursuant to section seven hundred fifty-eight-a in conjunction with an order of placement.

§26. Subdivision (c) of section 756 of such law is REPEALED.

§27. A new section 756-a of such law is added to read as follows:

§756-a. Extension of Placement

(a) In any case in which the respondent has been placed pursuant to section 756, the respondent, the person with whom the respondent has been placed, the commissioner of social services, or the division for youth may petition the court to extend such placement. Such petition and any supporting affidavits or reports shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown, but in no event shall such petition and any supporting affidavits or reports be filed after the original expiration date.

(b) The court shall conduct a hearing concerning the need for continuing the placement. The respondent, the presentment agency and the agency with whom the respondent has been placed shall be notified by the petitioner of such hearing and shall have the opportunity to be heard thereat.

(c) The provisions of section 745 shall apply at such hearing.

(d) At the conclusion of the hearing the court may, in its discretion, order an extension of the placement for not more than one year.

(e) Pending final determination of a petition to extend such placement filed in accordance with the provisions of this section, the court, for good cause shown, may enter a temporary order extending a period of placement for a period not to exceed thirty days upon satisfactory written proof showing probable cause for continuing such placement and that a temporary order is necessary. Such temporary order shall not be renewable.

(f) Successive extensions of placement under this section may be granted, but no placement may be made or continued beyond the respondent's eighteenth birthday without his or her consent and in no event past his or her twenty-first birthday.

§28. This act shall take effect on the sixtieth day after it shall have become a law.

IN SUPPORT OF

S.

A.

AN ACT

To amend the family court act, in relation to making certain technical changes with respect to the recodification of provisions concerning juvenile delinquency and persons in need of supervision effected by chapters nine hundred twenty and nine hundred twenty-six of the laws of nineteen hundred eighty-two and chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three and repealing certain provisions of such act relating thereto.

This measure is being introduced at the request of the Office of Court Administration. It has the support of the Family Court Advisory and Rules Committee.

It amends various sections of articles 3 and 7 of the Family Court Act, which relate to proceedings involving alleged juvenile delinquents and persons in need of supervision [hereinafter "PINS"].

In 1982, with the passage of Chapters 920 and 926 of the Laws of 1982, a new article 3 for the Family Court Act was enacted embodying a code of juvenile delinquency procedure. Article 7, which had previously encompassed both PINS and delinquency proceedings, now relates only to PINS proceedings. These articles were amended again by chapter 398 of the Laws of 1983. All three chapters took effect on July 1, 1983.

Since the effective date of these changes, various problems having an impact on court administration have emerged suggesting the necessity for further amendments in order to improve the ability of the Family Court to handle proceedings under both articles. In addition, certain technical errors in the law have become apparent.

The following constitutes the specific changes to articles 3 and 7 contained in this measure:

Article 3 (Juvenile delinquency proceedings)

Sections 1 and 2 substitute the term "post-disposition" for the term "post-judgment" in FCA §301.3(1)(A) and (2)(b). This is the appropriate terminology consistent with other provisions of the Family Court Act.

Section 3 eliminates the exception of New York City to the venue provision in FCA §302.3(4), allowing juvenile delinquency cases to be transferred from one county to another after fact-finding. The flexibility to transfer cases is equally necessary within New York City. Moreover, the amendment would permit a uniform practice throughout the state.

Section 4 substitutes the words "chief administrator of the courts" for "state court administrator" since the former is the legally correct title.

Section 5 substitutes the phrase "if independent legal counsel is not available" for the phrase "if he is indigent" in FCA §305.2(7)(d), relating to notice to a child of his or her right to counsel. The language of the amendment is consistent with that contained in FCA §§249 and 320.2(2) and, as in those sections, taken into account situations other than indigency.

Section 6 eliminates the requirement for rules of court in FCA §307.3(1) and (2), which concern the release of a child by a detention facility before a juvenile delinquency petition is filed. Since the statute already is explicit in listing the circumstances surrounding release, rules of court are superfluous. If additional conditions or prerequisites are to apply to the exercise of responsibility by administrators of detention faciliies, they should be set by the legislature, not by court rule.

Section 7 eliminates the limitation in FCA §307.4(4)(a) that the court may not release a child from custody, before a petition is filed, in a matter over which it determines it lacks jurisdiction unless the matter is one which "is not to be transferred to a criminal court". There is no provision in the Family Court Act for the transfer of any proceeding to a criminal court.

Section 8 clarifies FCA §312.1(2) to make it clear that it is the responsibility of the presentment agency, not the court, to serve respondent with a copy of the summons and petition in a juvenile delinquency proceeding. The presentment agency, as the agency now responsible for initiating an article 3 proceeding and presenting it through disposition, has been given broadened authority, which includes the responsibility for service of process. The same practice now applies in all Family Court proceedings to petitioners that are institutions and to individual petitioners who have legal representation.

Section 9 increases from ten to twenty days the time allowed in FCA §320.2(1) between the filing of a juvenile delinquency petition and the initial appearance [i.e., arraignment] where the respondent is not detained. This would allow the court greater flexibility in calendaring these cases. The measure also adds a "good cause" exception to the requirement in FCA §320.2(3) that the initial appearance may be adjourned for no more than 72 hours or the next court day, which gives the court additional needed flexibility. Such flexibility is particularly necessary in those counties lacking full-time and readily available law guardians, where the appointment of counsel requires time. Finally, the proposed amendment to FCA §320.2(4) specifies that, in addition to notifying the presentment agency, the clerk of court shall notify the law guardian, if one has been previously appointed [*see* §307.4], of the date of the initial appearance. This notice will help to reduce the likelihood of adjournments.

Section 10 eliminates from FCA §320.5(4) the vague requirement that the clerk of court and the probation service "cooperate" in making available to the presentment agency records appropriate for use at an initial appearance. "Appropriate" records are always available to the presentment agency and the word "cooperate" adds nothing to the court's responsibility. For clarity, the proposed amendment also adds the word "fingerprint" to characterize more clearly the records which must be returned to the presentment agency.

Section 11 adds a provision to FCA §325.1(2) excluding from the time limits for holding a probable cause hearing, those probable cause hearings held for children detained before a petition is filed, thus clarifying an ambiguity which exists between FCA §§325.1 and 307.4(7).

Section 12 deletes from FCA §340.1(5) the explicit direction that the court not consider "calendar congestion or the status of the court's docket or backlog" as "special circumstances" in determining successive motions to adjourn a fact-finding hearing. This provision has no counterpart in the Criminal Procedure Law, upon which much of this code of juvenile delinquency procedure was modeled, and goes beyond present case law. Its inclusion is even less appropriate in Family Court proceedings, since the Family Court, more than any other, already is burdened by numerous mandatory statutory preferences greatly complicating calendar management.

Section 13 eliminates from FCA §340.2(3)(c) the exception of New York City from this provision, which allows the assignment of a proceeding to a judge other than the one who presided at the fact-finding hearing. Such flexibility is equally necessary in New York City. Moreover, the amendment would make the law uniform throughout the state.

Section 14 eliminates from FCA §346.1 the language which gives the court the burden of examining records and holding hearings to determine the adequacy or clarity of a removal order made after a plea or verdict in criminal court. Although the court clearly has the discretion to make any inquiry into the sufficiency of such a removal order that it deems necessary, the responsibility to assure that the order complies with the requirements of CPL §725.05 should rest in the first instance with the presentment agency and criminal court, rather than the Family Court. The proposed change would mean that, absent such compliance, the mere filing of an order of removal would not be deemed to satisfy the requirements of a fact-finding hearing. Unless it clearly fulfills the requirements of CPL §725.05, the Family Court judge may take such action as is deemed appropriate, including remanding the case to the criminal court.

Section 15 deletes from FCA §350.1(5) the explicit direction that the court not consider "calendar congestion or the status of the court's docket or backlog" as "special circumstances" in determining successive motions to adjourn a dispositional hearing in a juvenile delinquency proceeding. As was explained in the comments to §12 herein on the proposed amendment to FCA §340.1(5) concerning adjournments of fact-finding hearings, this provision has no counterpart in the Criminal Procedure Law, upon which much of the code of juvenile delinquency procedure was modeled, and goes far beyond present case law. Its inclusion in Family Court is even less appropriate than in other courts, as the Family Court already is burdened by numerous mandatory preferences in the Family Court Act greatly complicating calendar management.

Section 16 adds a "good cause" exception to the requirement in FCA §354.1(4) that probation reports for dispositional hearings be submitted to the court at least five court days prior to the hearing. Probation departments throughout the state are having difficulty meeting this deadline, yet the court lacks the discretion to grant extensions.

The amendment also adds a requirement that the court make such reports available "forthwith" for inspection by the respondent and the presentment agency, thus limiting possible delay subsequent to the submission of the reports to the court.

Section 17 adds palmprints and photographs to FCA §354.1(4). These were inadvertently omitted from this subdivision but are consistently mentioned in the other subdivisions of this section.

Section 18 clarifies the procedures and requirements in FCA §355.3(1), (2) and (5) concerning extensions of placement:

(a) it requires that any supporting affidavits and reports must, like the petition, be filed 60 days before the expiration of the placement except for good cause shown, thus insuring that the court will have before it all appropriate and relevant material prior to the commencement of any hearing;

(b) it makes explicit the requirement that the petitioner, not the court, is responsible for providing notice of these proceedings; and

(c) it conforms the language of FCA §355.3(5) to that of FCA §1055(b)(iv) [the extension of placement procedure in article 10 proceedings], thus clarifying the circumstances under which a temporary order extending placement can be granted.

Article 7 (PINS proceeding)

Section 19 repeals FCA §723, which concerns duties arising after a private person takes a child into custody. FCA §722, which authorized such a taking into custody, was repealed by Chapter 920 of the Laws of 1982, since it was inapplicable to PINS. Under the circumstances, §723 is superfluous.

Section 20 makes changes in FCA §724(a) necessitated by the repeal of §723 and by the requirement of gender neutrality.

Section 21 substitutes the word "acts" in FCA §724(b)(ii) in the phrase "act occasioning the taking into custody" to reflect the requirement of §732 that a single act is insufficient to sustain a PINS petition. In addition, the word "child's" is substituted for "his" to reflect the requirement for gender neutrality. The amendment also requires that the chief administrator of the courts, rather than the appellate divisions, designate facilities for the questioning of children, thus conforming article 7 to article 3 [FCA §305.2(4)(b)].

Section 22 eliminates from FCA §727 the requirement that there be rules of court setting criteria for the release of a child from detention before a petition is filed. This would conform to the amendment proposed for §307.3 as explained in §6 herein. The amendment also eliminates the reference to detention facilities being run by probation services, since that is no longer the case, and refers instead to the agencies authorized by specified statutes to operate these facilities.

Section 23 eliminates from FCA §728(b)(i) the incorrect reference to transferring PINS proceedings over which the court lacks jurisdiction to a criminal court. There is no provision in the Judiciary Law for the transfer of any proceeding to a criminal court. This would conform to the amendment recommended for §307.4(4)(a), as explained in §7 herein.

Section 24 eliminates from FCA §734(a)(ii) the authority of the probation service to make recommendations to the corporation counsel or the county attorney concerning the adjustment of a case; such recommendations are applicable only to delinquency proceedings and therefore have no place in article 7 PINS proceedings.

Section 25 eliminates from FCA §756(b) all references to extensions of placement of PINS; section 26 repeals FCA §756(c) concerning successive extensions of placement. In their place, an entirely new section on extensions of placement is substituted. *See* §27 hereafter.

Section 27 adds a new section, FCA §756-a, concerning requirements and procedures for extensions of placement in PINS proceedings. The new section conforms to the present provisions concerning extensions of placement in articles 3 [juvenile delinquency proceedings: §355.3] and 10 [child protective proceedings: §1055]. *See also* proposed amendments to §355.3 as explained in §18 herein.

Section 28 makes the effective date of the bill 60 days after it becomes law, to allow adequate time for notice of the changes to be received by the courts, the agencies involved and the bar.

This measure would have no fiscal impact upon the state.

AN ACT

To amend the family court act, in relation to dispositional hearings in delinquency proceedings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section 302.3 of the family court act, as added by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

4. [In cases heard outside of the city of New York, and except] *Except* for designated felony act petitions, after entering a finding pursuant to subdivision one of section 345.1, and prior to the commencement of

the dispositional hearing the court may,in its discretion and for good cause shown, order that the proceeding be transferred to the county in which the respondent resides. The court shall not order such a transfer, however, unless it grants the respondent and the presentment agency an opportunity to state on the record whether each approves or disapproves of such a transfer and the reasons therefor. The court shall take into consideration the provisions of subdivisions two and three of section 340.2 in determining such transfer.

§2. Subdivision two of section 340.2 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended as follows:

> 2. The judge who presides at the fact-finding hearing or accepts an admission pursuant to section 321.3 shall preside at any other subsequent hearing in the proceeding, including but not limited to the dispositional hearing, *unless the dispositional hearing has been consolidated pursuant to section 350.3 of this act.*

§3. Paragraph (c) of subdivision three of section 340.2 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended as follows:

> (c) [in cases heard outside the city of New York,] if it is not practicable for the judge to preside.

§4. Section 350.3 of such law, as added by chapter nine hundred twenty the laws of nineteen hundred eighty-two, is amended by changing the section heading and by adding a new subdivision four as follows:

> Section heading of section 350.3:
> §350.3 Dispositional hearings, evidence and required quantum of proof [-]; appearance of presentment agency*; consolidated dispositional hearings.*
>
> *4. In the discretion of the court, and upon notice by the court to the respondent and the affected presentment agency or agencies, and upon an opportunity to be heard, a consolidated dispositional hearing may be held where more than one delinquency petition has been filed against the respondent pursuant to section 310.1(1) of this act and for which more than one fact-finding order has been entered pursuant to section 345.1(1) of this act.*

§5. Section 352.2 of such law, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended by adding a new subdivision four as follows:

> *4. Where a consolidated dispositional hearing has been held pursuant to section 350.3(4), a separate order of disposition shall be entered for each petition.*

§6. This act shall take effect immediately.

IN SUPPORT OF

S.

A.

AN ACT

To amend the family court act, in relation to dispositional hearings in delinquency proceedings

This measure is being introduced at the request of the Office of Court Administration. It has the support of the Family Court Advisory and Rules Committee.

It would amend article 3 of the Family Court Act to authorize the court in delinquency proceedings to hold a consolidated dispositional hearing where more than one delinquency petition has been filed against a respondent resulting in the entry of more than one fact-finding order against him or her.

The Family Court Act requires that a dispositional hearing take place prior to the court's making a final dispositional order. The purpose of the dispositional order is to mandate appropriate services for a respondent who has been found to have committed delinquent acts, taking into account the safety of the community. It is not intended as punishment. FCA §§301.1; 301.2(7), 352.2(2). The evidence presented at the dispositional hearing typically consists of diagnostic assessments and probation investigations, as well as testimony of witnesses called by the court or the parties to "offer evidence concerning the advisability of specific dispositional alternatives." FCA §350.4.

If, as frequently occurs, more than one petition has been filed against a respondent, fact-finding hearings may have been held before different judges. Present law requires that the judge who presides at a fact-finding hearing must also preside at the dispositional hearing on that petition, with certain exceptions. FCA §340.2. Since any dispositional hearing involving the same respondent invariably requires the presentation of the same evidence, the holding of separate dispositional hearings by different judges on each petition is likely to result in needless duplication of effort at great cost and inconvenience to the parties, the auxiliary services, the witness and the court. There is even the possibility of different judges entering conflicting dispositional orders for a single respondent.

Authorizing a court in its discretion to dispose of multiple petitions in a consolidated dispositional hearing would avoid repetitive effort by counsel, supportive investigatory and testing services and other witnesses. Moreover, it would assure the respondent and the community the prompt and consistent resolution of all pending petitions. Consolidated dispositional hearings could be usefully employed throughout the state, either in instances where multiple findings against the respondent have been made in a single county or where such findings have been made in different counties. The measure includes a requirement for notice to the respondent, appropriate presentment agency and an opportunity to be heard.

The following constitute the specific changes contained in this measure:

> Section 1 amends FCA §302.3(4), a venue provision which allows cases to be transferred from one county to another after fact-finding, to eliminate the existing exclusion of New York City from its terms. The amendment is necessary in order to enable the courts in New York City to hold consolidated dispositional hearings. Moreover, the flexibility to transfer cases is equally useful within New York City as elsewhere and eliminating this exception would permit practice to be uniform throughout the state.
>
> Section 2 amends FCA §340.2(2) to except petitions for which consolidated dispositional hearings are held from the requirement that the judge who makes the fact-finding order must be the one to make the dispositional order on that petition.
>
> Section 3 amends FCA §340.2(3)(c), the provision which sets forth the circumstances under which an assignment of a proceeding may be made to a judge other than the one who presided at the fact-finding hearing, to eliminate the exclusion of New York City from its terms. Such flexibility is equally necessary within New York City and eliminating the exception would make the law uniform throughout the state.
>
> Section 4 amends FCA §350.3 expressly to authorize the court to hold a consolidated dispositional hearing.
>
> Section 5 amends FCA §352.2 to require that a separate order of disposition must be entered for every petition disposed of in a consolidated dispositional hearing.

Consolidated dispositional hearings in suitable delinquency cases in Family Court would markedly lessen the administrative and financial burden on the court and would conserve the use of personnel and other court resources. It also would benefit similarly the other agencies and services involved in these proceedings.

AN ACT

To amend the family court act, in relation to child support

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five hundred and thirteen of the family court act, as amended by chapter six hundred eighty-six of the laws of nineteen hundred and sixty-two, is amended to read as follows:

> §513 Obligation of parents
>
> Each parent of a child born out of wedlock is liable for the necessary support and education of the child and for the child's funeral expenses *and, if possessed of sufficient means or able to earn such means, may be required to pay for such child's care, maintenance and education. A court shall make an award for child support pursuant to section 545 after consideration of all relevant factors, including*
>
> *(i) the financial resources of the parents and those of the child;*
>
> *(ii) the physical and emotional health of the child, and his or her educational or vocational needs and aptitudes;*
>
> *(iii) where practical and relevant, the standard of living previously established by the parents for the child;*
>
> *(iv) where practical and relevant, the tax consequences to the parties; and*
>
> *(v) the non-monetary contributions that the parents will make toward the care and well-being of the child.*
>
> If a parent dies, an order of support or a judicially approved settlement made prior to that parent's death shall be enforceable as a claim against the deceased parent's estate in an amount to be determined by the surrogate's court not greater than is provided in said order of settlement, having regard to the age of the child, the ability of the surviving parent to support and educate it, the amount of property left by the deceased parent and the number, age and financial condition of those other persons legally entitled to support by the deceased parent during his or her lifetime.

§2. This act shall take effect immediately.

IN SUPPORT OF

S.

A.

AN ACT

To amend the family court act, in relation to child support

This measure is being introduced at the request of the Office of Court Administration. It has the support of the Family Court Advisory and Rules Committee.

It would amend section 513 of the Family Court Act to specify relevant factors which the court should consider in making an award of child support in a paternity proceeding after an order of filiation has been made. This would conform the language and guidelines of section 513 to that of sections 413 of the Family Court Act and 32(3) of the Domestic Relations Law, which were amended by chapter 362 of the laws of 1983 to incorporate the factors required by DRL §236-B(7) to be considered in making an award of child support in support proceedings.

Since the factors considered in making child support awards in paternity proceedings are the same as those considered in making child support awards in other proceedings in which support may be awarded, the statutes should be made consistent.

This amendment would have no fiscal impact.

AN ACT

To amend the public health law, in relation to the release of identifying information in adoptions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section four thousand one hundred thirty-eight-b of such law, as added by chapter eight hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

> 1. There shall be established in the department an adoption information registry operated by employees of the department specifically designated by the commissioner. Access to all records and information in the registry shall be limited to such designated employees and such records and information shall be kept strictly confidential except as specifically authorized by law. The commissioner shall establish rules and procedures designed to keep such records and information separate and apart from other records of the department and kept in a manner where access to such records and information is strictly limited to such designated employees and shall promulgate regulations designed to effectuate the purposes of this section. [Notwithstanding any other provisions of law to the contrary, the] *The* commissioner shall have access to birth *and adoption* records of any agency, court or department having appropriate [birth] records which will enable the commissioner to effectuate the purposes of this section and may require the cooperation of such agency or department [, provided, however, that the].
>
> *However, the* commissioner shall not have access to *the* adoption records *of any court except in accordance with section 114 of the Domestic Relations Law.*

§2. Paragraph (a) of subdivision 4 of section four thousand one hundred thirty-eight-b of such law, as added by chapter eight hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

> (a) If the department determines that the adoption occurred within the state, it shall notify the court wherein the adoption occurred to submit to the department non-identifying information as may be contained in the records of the court[.], *provided that, if the court determines from its records that the adoption was from a licensed voluntary agency, the court shall submit to the department only the name and address of such authorized agency. In such cases, unless the adoptee registrant shall have elected otherwise, the department shall notify the agency whose name was provided by the court to release promptly to the adoptee registrant all non-identifying information as may be contained in the agency records. Such agency shall thereafter promptly release the non-identifying information to the adoptee registrant. If the adoptee registrant shall have elected not to have the information released to him or her by the licensed voluntary agency, the agency shall submit promptly to the department all non-identifying information as may be contained in the agency records.* [The department shall, unless the adoptee registrant shall elect otherwise, if a licensed voluntary agency was involved in such adoption, release the non-identifying information to such agency; such agency shall thereafter promptly release the non-identifying information to the adoptee registrant, at which time such agency may additionally release non-identifying materials, as defined in this section, as may be contained in the records of the agency.] If no licensed voluntary agency was involved or if the adoptee registrant shall have elected not to have release of information by the licensed voluntary agency involved in such adoption, the department shall release the non-identifying information to the adoptee registrant. The department and/or a licensed voluntary agency

restrict the nature of the non-identifying information released pursuant to this section upon a reasonable determination that disclosure of such non-identifying information would not be in the adoptee's or parent's best interest.

§3. Subdivision one of section four thousand one hundred thirty-eight-c of the public health law, as added by chapter eight hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

> 1. There shall be established in the department an adoption information registry operated by employees of the department specifically designated by the commissioner. Access to all records and information in the registry shall be limited to such designated employees and such records and information shall be kept strictly confidential except as specifically authorized by law. The commissioner shall establish rules and procedures designed to keep such records and information separate and apart from other records of the department and kept in a manner where access to such records and information is strictly limited to such designated employees and shall promulgate regulations designed to effectuate the purposes of this section. [Notwithstanding any other provisions of law to the contrary, the] *The* commissioner shall have access to birth *and adoption* records of any agency, court or department having appropriate [birth] records which will enable the commissioner to effectuate the purposes of this section and may require the cooperation of such agency or department[, provided, however, that the]. *However, the* commissioner shall not have access to *the* adoption records *of any court except in accordance with section 114 of the Domestic Relations Law.*

§4. Paragraph (a) of subdivision 4 of section four thousand one hundred thirty-eight-c of the public health law, as added by chapter eight hundred ninety-eight of he laws of nineteen hundred eighty-three, is amended to read as follows:

> (a) If the department determines that the adoption occurred within the state, it shall notify the court wherein the adoption occurred to submit to the department non-identifying information as may be contained in the records of the court[.], *provided that, if the court determines from its records that the adoption was from a licensed voluntary agency, the court shall submit to the department only the name and address of such authorized agency. In such cases, unless the adoptee registrant shall have elected otherwise, the department shall notify the agency whose name was provided by the court to release promptly to the adoptee registrant all non-identifying information as may be contained in the agency records. Such agency shall thereafter promptly release the non-identifying information to the adoptee registrant. If the adoptee registrant shall have elected not to have the information released to him or her by the licensed voluntary agency, the agency shall submit promptly to the department all non-identifying information as may be contained in the agency records.* [The department shall, unless the adoptee registrant shall elect otherwise, if a licensed voluntary agency was involved in such adoption, release the non-identifying information to such agency; such agency shall thereafter promptly release the non-identifying information to the adoptee registrant, at which time such agency may additionally release non-identifying materials, as defined in this section, as may be contained in the records of the agency.] If no licensed voluntary agency was involved or if the adoptee registrant shall have elected not to have release of information by the licensed voluntary agency involved in such adoption, the department shall release the non-identifying information to the adoptee registrant. The department and/or a licensed voluntary agency may restrict the nature of the non-identifying information released pursuant to this section upon a reasonable determination that disclosure of such non-identifying information would not be in the adoptee's or parent's best interest.

§5. This act shall take effect sixty days after it shall have become a law.

IN SUPPORT OF

S.

A.

AN ACT

To amend the public health law, in relation to the release of identifying information in adoptions

This measure is being introduced at the request of the Office of Court Administration. It has the support of the Family Court Advisory and Rules Committee.

It would amend sections 4138-b and 4138-c of the Public Health Law, which were enacted last year as part of chapter 898 of the laws of 1983. This chapter establishes an information registry for adopted persons and the records of their adoptive and natural parents and sets forth a procedure for providing these persons with certain specified "non-identifying" information concerning the adoption. The information is to be obtained from the records of the court granting the adoption and the records of the licensed voluntary agency from which the adoption took place, if an agency was involved in the adoption.

When the bill initially was proposed in 1983, it did not provide any role for the courts, and the Office of Court Administration took no position on it. Last-minute amendments, however, enacted without consultation with, or an opportunity to comment by, the Office of Court Administration, have placed a substantial, and frequently unnecessary burden, for the law's implementation upon the personnel of the court which granted the adoption.

The statute establishes an adoption registry which will release information to adoptees. It describes nine items of "non-identifying information", and directs that court personnel search through court adoption records and provide these items to the Department of Health, the agency charged with administering the registry.

The necessity for court personnel to identify the correct adoption proceeding, and to search for, list and transmit the numerous items of information required by the statute, will have a significant administrative impact on the courts. Moreover, the information would not be contained in the court record in most cases where a voluntary agency was involved in the adoption; the information would exist, if at all, in the agency's records.

With that in mind, the proposed measure was drafted to provide that where a voluntary agency was involved in the adoption, the court's responsibility would be limited to giving the Department of Health the name and address of the agency. The agency would then give the Department the required "non-identifying" information or release the information directly to the adoptee. The proposed measure also contains a technical change and clarifies the applicability of the sealing provisions of §114 of the Domestic Relations Law.

The following are the specific amendments contained in the measure:

Section 1 amends Public Health Law §4138-b(1), relating to the establishment of the adoption information registry for adoptions that take place prior to April 1984. It adds the term "adoption" in describing the types of records, in addition to birth records, to which the Commissioner of the Department of Health may have access, since the information sought by the Commissioner may be found in either or both types of records.

Section 1 also specifies that access to court adoption records must still be obtained in accordance with the provisions of Domestic Relations Law §114, which requires that adoption records be sealed and that access to them may be obtained only by court order. Since DRL §114 was not specifically amended or referred to in chapter 898, questions have been raised whether the access procedures of DRL §114 apply to requests made by the Department of Health for information pursuant to Public Health Law §4138-b(1), or whether the law has superseded DRL §114. The courts have been advised to follow the access procedures of DRL §114, and they have been deeming a written request by the Department of Health pursuant to Chapter 898 as an application for an order to unseal the adoption record. Nonetheless, we believe the section should be amended to include explicit reference to the applicability of DRL §114.

Section 2 amends Public Health Law §4138-b(4)(a) to limit the information gathering task of court personnel in instances where a voluntary agency was involved in the adoption while leaving intact the present statutory scheme for transmittal of non-identifying information to the adoptee. In these cases, the court would provide to the Department of Health only the name and address of the authorized agency, as the non-identifying information specified in §4138-b(3) and sought by the Department is available, if anywhere, in the records of the agency, not in the records of the court. Thus, the amendment better serves the purposes of the statute and relieves court personnel from needless and burdensome tasks.

Sections 3 and 4 of the measure amend Public Health Law §§4138-c(1) and 4138-c(4)(1), which use language identical to that in §4138-b to establish an adoption information registry and procedures relating thereto for adoptions that take place after April 1984. The amendments proposed for §4138-c track the language used in the amendments to §4138-b, described heretofore for sections 1 and 2 of the measure. The reasons in support of the amendments to §4138-c are the same as those described for sections 1 and 2 above.

This bill is not anticipated to have any fiscal impact, except that its passage should conserve court resources.

Appendix C

Report of the Family Court Advisory and Rules Committee

to

Honorable Robert J. Sise
Chief Administrator of the Courts
On the Proposed Code of Evidence
for the
State of New York

January, 1984

Code of Evidence

Comments by the Family Court Advisory and Rules Committee

Upon request from former Chief Administrator of the Courts, Honorable Herbert B. Evans, to examine and make recommendations with respect to the impact of the proposed Code of Evidence (S.334 - A.332) upon Family Court or family law practice, the members of the Family Court Advisory and Rules Committee reviewed and commented upon each article of the proposed bill.

The following is a summary of the Committee's reactions and recommendations, on an article-by-article basis.

Article 1 (General Provisions)

By its terms, the Code is applicable to all proceedings in Family Court (1.101(b)(2)). It is recommended therefore, that if the Code is enacted, §165 of the Family Court Act be amended to reflect the application of the Code correspondingly.

Article 2 (Judicial Notice)

Nothing in the proposal is noteworthy from the narrow vantage point of family law or Family Court procedure. In general, it is the Committee's view that the proposed Code provisions would simplify and clarify procedure since it is a codification or restatement of present decisional and statutory law. The Committee had no objection to the adoption of this article.

Article 3 (Burden of proof and presumptions)

Because this article applies to civil proceedings, it would, in the opinion of the Committee, be applicable to all Family Court proceedings except those involving juvenile delinquency. It is unclear, however, whether and to what extent, it would apply to PINS proceedings, which are now separated from juvenile delinquency proceedings. A separate codification applicable to juvenile delinquency proceedings has been enacted (FCA article 3). There is need for clarification whether this separation means that PINS proceedings are to be considered purely civil in nature, and whether the proposed Code of Evidence, more particularly article 3 thereof, will apply to PINS proceedings.

Because family law and Family Court procedure has numerous presumptions carrying evidentiary weight, the Committee believed that the codification is helpful. The Committee noted that the proposed Code (§303(a)), makes allowance for the heavier weight which certain family law presumptions bear, such as the presumption of legitimacy.

Article 4 (Relevancy).

Since §402 defers to other statutes, the Family Court Act will continue to apply. In other areas, the Committee found no ground for objection, anticipating, however, that it might make "more proffered evidence admissible".

Article 5 (Privileges)

This article restates a number of privileges with significance for family law and Family Court proceedings — the husband-wife, social worker-client, and doctor (nurse, psychiatrist, etc.)-patient privileges. However, the Code, also proposes the legislative enactment of a parent-child privilege (§507) heretofore enunciated only in case law. The proposed privilege is not limited by age, belongs to both parent and child, and may be used to prevent the other party or any other person from disclosing the communication.

Predictably, this proposal was seen as having great significance within family law and Family Court proceedings. The Committee has a number of comments and suggestions pertaining to the proposal, including raising the broad question of desirability of a parent-child privilege in any proceeding in which "the best interests of the child" is the prevailing issue. The implication of such a question extends to the applicability of such a privilege in any Family Court proceedings where children are involved or in matrimonial actions involving children.

Without taking a position against the enactment of a parent child privilege, the Committee made a number of specific suggestions: (1) The section should explicitly cover the out-of-wedlock child to make certain that its application was not confined to legitimate relationships only, as is case in the husband-wife privilege. (2) The section pertaining to exceptions to the application of the privilege (§507(d)) should be amended explicitly to delineate PINS, nonsupport and paternity proceedings among the exceptions set forth (D)(4), which lists as exceptions civil proceedings brought by parent against child or child against parent.

The Committee also recommended that the text of the section and commentary pertaining to attorney-client privilege (§505) be amended explicitly to apply to actuaries, accountants or investigators, whose use is proliferating because of "equitable distribution." While this applicability would seem to be covered by §505(b)(4), it was urged that the provision be made more explicit. In addition, there is a difference in the language of §505(d)(3) (husband-wife) and §507(d)(3) (parent-child) which should be examined: The husband-wife exception is limited to actions between them; the parent-child exception extends to "another or the other parent."

Article 6 (Witnesses)

A number of provisions in this article were identified as needing reconsideration, clarification or change to allow for special application in Family Court proceedings.

§601 - This section would overrule present case law which prevents either spouse, except in paternity and support proceedings, from testifying to nonaccess during wedlock where the effect would be to show the illegitimacy of the offspring. Although aware that the presumption of legitimacy would still apply, the Committee was wary of the elimination of the protection afforded by the common law rule covering nonaccess.

§602 - Subdivision (a) may conflict with the present rule in Family Court which does not require competent evidence at dispositional hearings (FCA §§624, 745, 834 and 1046). Although §101(b) contains the words "except as otherwise provided by statute," which would appear to give precedence to the Family Court Act, it is unclear whether that exception covers all preexisting statutes.

§609 - It should be noted that §609(d) when read together with §609(a), provides that adjudications of juvenile delinquency can be offered in evidence to impeach the credibility of witnesses in any proceeding. This section should be corrected to delete reference to "article seven", which no longer applies to juvenile delinquency proceedings; it should read "article 3." The new code of juvenile procedure (FCA §344.1) permits the use of prior delinquency adjudication to impeach credibility only in another juvenile delinquency proceeding, a narrower provision than §609(d) of the proposed Code of Evidence.

The proposed section in the Code of Evidence effects a change in present law by permitting the introduction into evidence of prior juvenile delinquency adjudications to impeach a witness' credibility in all other proceedings, whether in Family Court or elsewhere. Adjudications in PINS proceedings are excluded. However, FCA §§381.2 and 784 make inadmissible "as evidence against his or her interests in another court", except for sentencing upon an adult after conviction, the "fact that a person was before the family court under this article". Since the Code of Evidence makes express reference to adjudications that are treated otherwise in the Family Court Act, and since the Family Court Act presumably controls, this inconsistency must be met.

§615 - This sections deals with the exclusion of witnesses and prohibits the exclusion of a party who is a natural person. The Court of Appeals, however, in *Matter of Lincoln v. Lincoln*, 24 N.Y.2d 270 (1969), established the rule that where child custody is involved, the court may interview a child without the presence of a parent-party. Based on this rule, respondent-parents in child protective proceedings may, on occasion, be excluded during a child's testimony. In an adoption proceeding, it may sometimes be desirable for the court in its discretion to exclude a natural or adoptive parent. Under the proposed section, this discretion would be removed.

Subdivision (b) prohibits the exclusion of "an officer or employee of a party which is not a natural person designated as its representative by its attorney." Where such person is a caseworker-witness in a child protective proceeding or termination of parental rights proceeding, consideration should be given to the discretionary need for a judge to exclude such a person.

In general, it is recommended that all of these exclusions, which the Code makes a matter of right where requested, should be discretionary except in criminal cases.

Article 7 (Opinions and expert testimony)

This article liberalizes evidentiary principles in the areas of opinions and expert testimony. The Committee does not object to any of its provisions.

Article 8 (Hearsay)

Hearsay is now admissible in Family Court dispositional hearings, since evidence need not be "competent" to be so admitted. However, in order to admit hearsay in fact-finding, it must fall within an exception. Section 803(c)(5) of the proposed Code takes cognizance of the leading case involving a Family Court Proceeding, *Matter of Leon RR.*, 48 N.Y. 2d

117 (1979), which dealt with Department of Social Services records as "business records".

Section 807 requires notice to be given where written hearsay evidence is intended to be introduced. It is recommended that the section be amended to require the proponent to indicate the specific portions to be offered for introduction and that the section include a sanction for failure to give notice.

Except for these recommendations, the Committee had no objections to this article.

Article 9 (Authentication and identification)

There were no aspects singled out as having special significance when applied to family law or Family Court proceedings. No objection was raised to this article.

Article 10 (Contents of Writings, Recordings and Photographs)

There were no provisions to which exception was taken.

Article 11 (Miscellaneous provisions)

The Committee considered the codification of the miscellaneous provisions useful and had no objection to the draft provisions.

The membership of the Committee at the time this code was reviewed and these reports were made was:

Hon. Donald J. Corbett, Jr., *Chairman*
Hon. Arthur J. Abrams
Hon. Gene L. Catena
Hon. Hugh Ross Elwyn
Hon. William L. Kellick, Jr.
Hon. Shirley Wohl Kram
Hon. Edward J. McLaughlin
Hon. Richard M. Palmer
Hon. Nicholas L. Pitaro
Hon. Aileen Haas Schwartz
Hon. Jack Turret
Hon. Robert H. Wagner
Hon. Alfred J. Weiner
Hon. Joseph B. Williams
William G. O'Brien, Esq.
Consultant: Frank Boccio, Esq.
Staff: Shirley Mitgang, Esq.
Robin L. Faine, Esq.

Appendix I

Other Programs

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Retainer and Closing Statements

Under 22 NYCRR Parts 603, 551 and 1022, every attorney in a contingent fee in the First, Second and Fourth Judicial Departments* must file a Statement of Retainer with the Office of Court Administration in cases involving personal injury, property damage, wrongful death, or change of grade. This statement must be filed within 30 days of the date the lawyer is retained (15 days in the case of "of counsel" lawyers). It sets forth the date of the agreement, the terms of compensation, the agreement as to work and fee division between the original lawyer and the "of counsel" lawyer, and data about the person referring the client to the lawyer.

In addition, every such lawyer must file a closing statement with the Office of Court Administration within 15 days of the date the monies became available to him. This statement sets forth such information as the monetary amount of the settlement or award (if any). If an action was commenced, it contains the date, court and county of commencement and the method of the recovery, the person paying the recovery, the distribution of the recovery to the client and the lawyer's fees and other disbursements.

The purpose of these statements is to provide information for use by the three Appellate Divisions to prevent the charging of unconscionable fees in contingent fee cases and to discourage the unlawful solicitation of cases.

Table A-1 shows that 103,671 retainer statements were filed with the Office of Court Administration in 1983. This is a decrease of about 10 percent from the previous year.

Table A-2 gives the court in which actions were terminated and the monetary breakdown by settlement or judgment. For cases commenced in the Supreme Court, the largest single group of cases terminated involved recoveries between $10,000 and $15,000. The largest single group of cases terminated in the lower courts involved recoveries between $1,000 and $4,000. The great majority of claims settled resulted in at least some monetary recovery. Although there were some very large recoveries, they were proportionately few; there were 2,657 recoveries in the $50,000 to $100,000 category and 1,822 recoveries over $100,000.

Statements of Approval of Compensation

Section 35-a of the Judiciary Law, as originally enacted by the Legislature in 1967, required the filing of a Statements of Appointment by each person appointed by the courts to perform services in actions and proceedings for a fee or an allowance. The statute called for these statements to be filed with the Judicial Conference within 30 days of an appointment. The required information included the name and the address of the appointee, the nature of the appointment, the title of litigation, and the name of the court and the judge or justice making the appointment.

In addition, within 30 days of receiving a fee, the appointee was required to execute a Statement of Services Rendered with other pertinent data related to the fee received. Under the statute, all statements filed were to be kept as matters of public record. The law also required that an annual summary of the information in the statement be furnished to the four Appellate Divisions of the Supreme Court for use in supervising court appointments in their Judicial Departments.

An extensive study of this system of two reports for each appointment revealed a number of inefficiencies. Not the least of these was the failure of many appointees to file a Statement of Services Rendered after payment of the fee. To deal with this problem, the Office of Court Administration sponsored legislation amending section 35-a which was enacted as Chapter 834, Laws of 1975, and which went into effect starting with appointments made after September 1, 1975.

Under the amended law, judges who approve fees are responsible for filing a single comprehensive statement, entitled Statement of Approval of Compensation on appointments for which the fee is more than $200. The judges are required to send the statements to the Office of Court Administration each week for data processing and filing. Fees of $200 or less are not required to be reported because they are believed to have little significance in the statistical study of appointments made in the court system.

In 1983 a total of 5,279 Statements of Approval of Compensation were filed with the Office of Court Administration. The new system accomplished its intended purpose of obtaining timely reports on court appointments without loss of required data provided by the older system.

Attorney Registration

Pursuant to Section 468-a of the Judiciary Law and the Rules of the Chief Administrator (22 NYCRR Part 118), a new registration system was instituted in 1982. Under this system every attorney admitted to practice on or before January 1, 1982 whether resident or non-resident, and whether or not in good standing, was required to file a registration statement with the Chief Administrator of the Courts no later than March 1, 1982.

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*At present, there is no filing rule for the Third Judicial Department.

Every registration must include a fifty dollar fee unless the attorney certifies that he or she does not intend to engaged in the practice of law during the biennial registration period.

In addition, every attorney newly admitted to practice in New York State after January 1, 1982, whether resident or nonresident,and whether or not in good standing, is required to file a registration statement within 60 days of the date of such admission.

Every attorney is then required to reregister during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York Bar. The law also requires that an attorney notify the Office of Court Administration within 30 days of any change in business or resident address as well as registration status.

As of the end of calendar year 1983, approximately 86,000 attorneys were registered with the Office of Court Administration and four million dollars in registration fees collected. Half of these proceeds go to the Client Security Fund as prescribed by the Judiciary Law.

Table A-3 shows the breakdown of attorneys by county and department of business. Table A-4 gives the breakdown of attorneys by year of birth as furnished in the registration statement.

Adoption Affidavits

According to the Rules of the respective Appellate Divisions 22 NYCRR Parts 603.22 (1st Dept.), 691.23 (2nd Dept.), 806.13 (3rd Dept.) and 1022.32 (4th Dept.) all attorneys must file an affidavit as a condition to proceed with an adoption. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

Once the attorney has been contacted to represent a client in an adoption proceeding, the attorney prepares a petition requesting an adoption. When the petition is filed, a docked number is issued by the court. The attorney's affidavit is completed in duplicate by the attorney who files one copy with the Office of Court Administration. During 1983, 6,631 adoption affidavits were filed with the Office of Court Administration.

Table A-1
RETAINER STATEMENT FILINGS BY MONTH
January 1, 1983 through December 31, 1983

Month	Number of Statements of Retainer Filed
January	8,126
February	7,779
March	8,240
April	8,995
May	8,766
June	8,776
July	8,018
August	9,076
September	9,037
October	8,995
November	8,249
December	9,624
Total	103,671

Table A-2
Court and Monetary Breakdown of Closing Statements
January 1, 1983 through December 31, 1983

Amount of Recovery	Supreme Court		U.S. District Court		Court of Claims*		County Court		Civil Court		City Courts		District Court		Justice Court		All Courts		No Action**
	Settled	Judgment	Stetled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judge ment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled
1-499	147	18	12	3	......	......	2	......	90	......	6	......	8	......	1	......	266	21	148
500-999	284	6	9	......	......	......	5	......	247	2	11	1	17	......	5	2	578	11	487
1,000-1,999	1,320	14	35	......	1	......	13	......	644	10	45	4	40	3	1	......	2,099	31	1,324
2,000-2,999	2,002	16	45	1	3	1	11	......	577	6	24	1	22	3	......	......	2,684	28	1,577
3,000-3,999	2,700	14	46	2	7	......	6	2	404	4	10	1	23	......	......	......	3,196	23	1,807
4,000-4,999	2,334	7	32	......	3	1	7	......	230	7	4	......	12	1	......	......	2,622	16	1,489
5,000-5,999	2,652	22	39	......	5	......	3	......	132	6	3	......	9	......	......	......	2,843	28	1,387
6,000-6,999	2,312	14	30	......	2	......	1	1	91	3	4	......	......	1	......	......	2,440	19	1,059
7,000-7,999	2,940	16	53	......	14	1	3	......	73	5	......	......	1	......	......	......	3,084	22	1,189
8,000-8,999	1,751	19	19	......	1	......	......	......	38	......	......	......	......	......	......	......	1,809	19	710
9,000-9,999	2,073	11	28	1	10	2	1	......	19	......	......	......	......	......	......	......	2,131	14	827
10,000-14,999	5,976	60	91	......	16	1	......	......	51	4	......	......	......	......	......	......	6,134	65	2,166
15,000-19,999	3,221	37	74	6	5	1	......	......	18	......	......	......	......	......	......	......	3,318	44	627
20,000-24,999	2,059	39	77	......	4	......	......	......	10	......	......	......	......	......	......	......	2,150	39	323
25,000-29,999	1,512	31	37	3	3	......	......	......	8	......	......	......	......	......	......	......	1,560	34	237
30,000-34,999	898	17	33	3	2	......	......	......	2	......	......	......	......	......	......	......	935	20	123
35,000-49,999	1,937	37	96	2	5	2	......	......	3	1	......	......	......	......	......	......	2,041	42	229
50,000-99,999	2,412	64	136	11	3	6	......	......	3	2	......	......	......	......	......	......	2,554	103	238
100,000-up	1,589	81	134	9	3	6	......	......	......	......	......	......	......	......	......	......	1,726	96	77
Total With Recovery	40,119	543	1,026	41	87	21	52	3	2,640	50	107	7	132	8	7	2	44,170	675	16,024
No Recovery	1,041		50		21		4		192		4		14		1		1,327		4,871

NOTE: Whenever individual closing statements were filed by attorneys acting jointly in a case, each statement received was included in these tabulations. Thus, the number of statements somewhat exceeds the total number of cases closed.

*Includes condemnation as well as tort matters.

**Item 3 of the closing statement requires that the court and date be indicated if an action was commenced.
This catagory includes those statements in which this item is left blank.

Table A-3
ATTORNEY REGISTRATION BY LOCATION

LOCATION	TOTAL
Albany	2,015
Allegany	43
Bronx	1,122
Broome	435
Cattaragus	85
Cayuga	75
Chautauqua	161
Chemung	144
Chenango	60
Clinton	75
Columbia	69
Cortland	44
Delaware	57
Dutchess	415
Erie	2,329
Essex	69
Franklin	57
Fulton	63
Genesee	65
Greene	51
Hamilton	7
Herkimer	65
Jefferson	97
Kings	3,491
Lewis	17
Livingston	49
Madison	73
Monroe	1,902
Montgomery	63
Nassau	5,527
New York	39,022
Niagara	273
Oneida	388
Onondaga	1,321
Ontario	89
Orange	439
Orleans	28
Owesgo	78
Otsego	72
Putnam	121
Queens	2,478
Rensselaer	224
Richmond	435
Rockland	584
St. Lawrence	80
Saratoga	175
Schenectady	316
Schoharie	31
Schuyler	17
Seneca	36
Steuben	113
Suffolk	2,213
Sullivan	145
Tioga	35
Tompkins	164
Ulster	225
Warren	138
Washington	48
Wayne	77
Westchester	3,281
Wyoming	32
Yates	19
Outside New York State	11,394
Missing County	2,795
Total	85,610
First Department	40,144
Second Department	18,984
Third Department	4,952
Fourth Department	7,341
Outside New York State	11,394
Missing County	2,795
Total	85,610

Table A-4

ATTORNEY REGISTRATION

By Date of Birth

Date of Birth	*Total*
1959 and After	50
1953 - 1958	13,385
1948 - 1952	16,055
1943 - 1947	13,441
1938 - 1942	8,436
1933 - 1937	6,331
1928 - 1932	7,060
1923 - 1927	5,469
1918 - 1922	4,021
Before 1918	10,954
Missing Date	408
Total	85,610

APPENDIX 2

Family Court Statistics

Table A-5
FAMILY COURT
Court Findings in Child Protective Proceedings
January 1, 1983 through December 31, 1983

Region County	Total	Court Findings at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	6,481	600	3,535	121	2,225	2,795	3,686
Total New York City	2,784	270	1,791	94	629	1,456	1,328
New York	566	26	397	......	143	303	263
Kings	874	80	627	33	134	406	468
Queens	512	47	306	4	155	207	305
Bronx	664	105	366	55	138	478	186
Richmond	168	12	95	2	59	62	106
Total Upstate	3,697	330	1,744	27	1,596	1,339	2,350
Albany	85	13	72	......	......	85	......
Allegany	11	......	1	......	10	6	5
Broome	42	5	26	2	9	25	17
Cattaraugus	85	......	36	......	49	24	61
Cayuga	10	3	5	......	2	7	3
Chautauqua	59	1	37	2	19	10	49
Chemung	104	13	75	......	16	1	103
Chenango	32	4	14	......	14	6	26
Clinton	37	17	12	......	8	33	4
Columbia	43	1	4	......	38	2	41
Cortland	38	1	37	......	......	36	2
Delaware	73	41	26	......	6	46	27
Dutchess	58	7	38	......	13	18	40
Erie	451	12	199	......	240	159	292
Essex	19	......	13	......	6	11	8
Franklin	23	2	5	......	16	7	16
Fulton	55	4	11	......	40	2	53
Genesee	37	2	19	......	16	1	36
Greene	26	......	1	......	25	1	25
Hamilton	1	......	......	......	1	......	1
Herkimer	12	1	6	......	5	1	11
Jefferson	60	......	10	......	50	......	60
Lewis	5	......	5	......	......	......	5
Livingston	13	2	5	......	6	8	5
Madison	31	6	17	......	8	8	23
Monroe	355	47	135	2	171	155	200
Montgomery	4	......	......	......	4	......	4
Nassau	345	1	215	12	117	129	216
Niagara	81	6	39	......	36	25	56
Oneida	......	......	......	......	......	......	......
Onondaga	340	39	204	2	95	207	133
Ontario	57	12	14	......	31	19	38
Orange	2	......	1	......	1	......	2
Orleans	31	4	18	......	9	29	2
Oswego	12	1	2	......	9	1	11
Otsego	25	2	16	......	7	11	14
Putnam	12	1	1	......	10	1	11
Rensselaer	23	......	......	......	23	......	23
Rockland	59	1	32	......	26	10	49
St. Lawrence	24	4	8	......	12	5	19
Saratoga	38	2	18	......	18	4	34
Schenectady	32	6	13	......	13	10	22
Schoharie	55	3	33	......	19	16	39
Schuyler	9	1	5	......	3	1	8
Seneca	17	......	10	......	7	6	11
Steuben	46	12	5	......	29	23	23
Suffolk	286	22	115	......	149	47	239
Sullivan	35	4	4	......	27	8	27
Tioga	30	6	15	......	9	16	14
Tompkins	4	3	1	......	......	......	4
Ulster	25	2	5	......	18	15	10
Warren	12	......	2	......	10	1	11
Washington	29	......	26	......	3	26	3
Wayne	44	8	19	......	17	30	14
Westchester	218	7	97	5	109	32	186
Wyoming	37	1	17	2	17	15	22
Yates	......	......	......	......	......	......	......

Table A-6 (partial)
FAMILY COURT
The Age of Children In Child Protective Proceedings Involving Child Abuse
January 1, 1983 through December 31, 1983
Child's Age When Petition Filed (Last Birthday)

Region County	Total	Under 1	1	2	3	4	5	6	7	8
Total New York State	1,778	159	100	105	112	115	95	95	83	76
Total New York City	793	84	49	55	46	64	47	48	38	33
New York	76	11	4	5	6	11	3	2	5	3
Kings	259	15	19	20	14	24	12	15	12	16
Queens	139	12	3	8	9	4	8	9	6	4
Bronx	274	44	19	20	16	25	22	18	13	10
Richmond	45	2	4	2	1	......	2	4	2	......
Total Upstate	985	75	51	50	66	51	48	47	45	43
Albany	13	1	......	......	......	......	......	......	2	1
Allegany	1	......	......	......	......	......	......	......	......	......
Broome	14	2	2	......	1	1	......	......	......	......
Cattaraugus	7	......	......	......	3	......	......	......	......	......
Cayuga	4	......	......	......	......	......	......	1	......	1
Chautauqua	5	1	......	......	......	......	......	......	......	......
Chemung	22	1	2	......	3	3	1	3	1	......
Chenango	16	......	......	3	2	1	1	......	......	2
Clinton	28	5	1	2	3	3	5	2	......	2
Columbia	15	......	1	......	2	2	......	1	1	......
Cortland	5	......	......	......	......	......	......	......	1	1
Delaware	54	......	1	4	3	1	1	3	1	4
Dutchess	33	6	2	6	3	......	......	2	2	......
Erie	105	13	7	7	7	8	6	7	6	7
Essex	5	1	2	......	......	......	......	......	......	......
Franklin	4	1	......	1	......	......	1	......	......	......
Fulton	21	......	3	1	2	2	......	1	......	......
Genesee	12	1	2	......	4	......	1	......	......	......
Greene	6	1	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......
Herkimer	7	......	......	1	......	......	......	......	......	......
Jefferson	18	3	1	2	......	1	4	......	1	......
Lewis	5	......	......	......	......	......	1	......	......	......
Livingston	3	......	......	......	......	......	......	......	......	1
Madison	7	......	......	......	......	......	1	1	1	......
Monroe	112	8	2	4	6	4	4	6	7	7
Montgomery	......	......	......	......	......	......	......	......	......	......
Nassau	60	7	6	2	2	3	4	2	2	5
Niagara	10	......	1	1	1	1	......	......	3	......
Oneida	......	......	......	......	......	......	......	......	......	......
Onondaga	95	8	2	4	7	7	6	7	1	......
Ontario	20	......	1	1	......	1	2	......	2	1
Orange	......	......	......	......	......	......	......	......	......	......
Orleans	7	......	......	......	......	1	......	......	......	2
Oswego	2	......	......	......	......	......	......	......	......	......
Otsego	2	......	......	......	......	......	......	......	......	......
Putnam	4	......	......	......	......	......	......	1	......	......
Rensselaer	12	1	1	3	2	1	1	1	......	......
Rockland	4	......	......	......	......	1	......	1	1	......
St. Lawrence	8	2	......	......	......	......	......	......	......	......
Saratoga	5	......	1	......	......	......	......	......	......	......
Schenectady	12	1	......	......	......	1	......	......	......	......
Schoharie	3	......	......	......	......	......	......	......	......	......
Schuyler	3	......	......	......	1	......	......	......	......	......
Seneca	4	1	1	1	1	......	......	......	......	......
Steuben	20	......	......	......	......	......	......	2	2	......
Suffolk	61	7	5	3	3	2	3	2	4	3
Sullivan	10	1	2	1	......	2	......	......	......	......
Tioga	8	......	......	......	......	......	......	1	1	......
Tompkins	3	......	......	......	......	......	......	......	......	......
Ulster	14	1	......	1	1	1	1	1	2	1
Warren	4	......	......	......	......	......	......	......	......	......
Washington	2	......	......	......	......	......	......	......	......	......
Wayne	23	......	2	1	2	1	3	1	2	1
Westchester	47	2	3	1	2	3	1	......	2	3
Wyoming	20	......	......	......	5	......	1	1	......	1
Yates	......	......	......	......	......	......	......	......	......	......

Table A-6 (concluded)
FAMILY COURT
The Age of Children In Child Protective Proceedings Involving Child Abuse
January 1, 1983 through December 31, 1983

Region County	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	104	79	84	110	122	105	122	105	7
Total New York City	40	36	35	46	50	38	47	32	5
New York	6	2	4	2	5	2	2	3	......
Kings	14	17	11	15	18	10	17	5	5
Queens	8	4	8	15	11	12	13	5	......
Bronx	9	10	10	9	14	9	13	13	......
Richmond	3	3	2	5	2	5	2	6	......
Total Upstate	64	43	49	64	72	67	75	73	2
Albany	1	2	......	......	1	3	2	......	......
Allegany	......	......	......	1	......	......	......	......	......
Broome	1	......	......	......	1	3	1	2	......
Cattaraugus	......	......	1	3	......	......	......	......	......
Cayuga	1	......	......	1	......	......	......	......	......
Chautauqua	......	1	......	......	3	......	......	......	......
Chemung	1	......	......	......	......	6	......	1	......
Chenango	1	1	2	......	2	......	1	......	......
Clinton	2	1	......	1	1	......	......	......	......
Columbia	......	1	......	1	2	1	3	......	......
Cortland	......	......	2	......	1	......	......	......	......
Delaware	6	1	3	4	4	4	7	7	......
Dutchess	1	2	1	1	4	......	2	1	......
Erie	9	5	4	6	3	4	5	1	......
Essex	......	......	......	......	2	......	......	......	......
Franklin	......	......	......	......	1	......	......	......	......
Fulton	1	2	......	4	......	2	3	......	......
Genesee	......	1	......	1	......	......	......	2	......
Greene	1	......	1	......	3	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	1	......	3	2	......
Jefferson	1	1	......	1	1	......	2	......	......
Lewis	......	......	1	......	......	1	1	1	......
Livingston	......	......	1	......	......	1	......	......	......
Madison	......	1	......	1	......	1	......	1	......
Monroe	9	4	8	9	9	8	6	11	......
Montgomery	......	......	......	......	......	......	......	......	......
Nassau	3	3	4	3	2	1	6	5	......
Niagara	......	......	1	......	......	1	1	......	......
Oneida	......	......	......	......	......	......	......	......	......
Onondaga	4	5	6	8	5	8	6	11	......
Ontario	1	1	1	2	2	1	4	......	......
Orange	......	......	......	......	......	......	......	......	......
Orleans	1	......	......	1	......	......	......	2	......
Oswego	......	......	......	......	1	......	......	1	......
Otsego	......	......	......	......	1	1	......	......	......
Putnam	......	1	......	......	......	1	1	......	......
Rensselaer	......	1	......	1	......	......	......	......	......
Rockland	1	......	......	......	......	......	......	......	......
St. Lawrence	3	......	......	......	......	......	1	2	......
Saratoga	......	......	......	......	1	2	1	......	......
Schenectady	1	1	......	2	......	......	2	4	......
Schoharie	1	......	......	1	......	......	1	......	......
Schuyler	......	......	......	1	......	1	......	......	......
Seneca	......	......	......	......	......	......	......	......	......
Steuben	3	......	2	1	3	2	2	3	......
Suffolk	1	3	3	3	5	7	3	3	1
Sullivan	1	......	......	......	1	2	......	......	......
Tioga	......	......	......	3	......	......	......	3	......
Tompkins	......	......	......	......	......	1	1	1	......
Ulster	1	2	......	......	......	......	1	1	......
Warren	......	......	1	2	......	......	1	......	......
Washington	......	......	1	......	......	......	......	1	......
Wayne	1	1	......	1	1	3	2	1	......
Westchester	6	2	3	1	7	1	4	5	1
Wyoming	1	......	3	......	4	1	2	1	......
Yates	......	......	......	......	......	......	......	......	......

Table A-7 (partial)
FAMILY COURT
Reasons for Petitions in Child Protective Proceedings Involving Child Abuse
January 1, 1983 through December 31, 1983

		Reasons for Petition													
		Child Abuse			Neglected Child										
Region County	Total Reasons (Child Abuse Only)	Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental Emotional or Physical Health (Etc.)	Inadequate Food Shelter or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	747	249	102	396	78	23	6	10	6	6	4	8	7	1	5
Total New York City	403	171	78	154	36	11	3	5	2	1	1	2	5	......	......
New York	24	14	5	5	3	......	......	......	......	......	......	......	......	......	......
Kings	147	48	46	53	23	10	3	5	2	1	1	......	5	......	......
Queens	57	23	9	25	6	1	......	......	......	......	......	2	......	......	......
Bronx	160	79	17	64	......	......	......	......	......	......	......	......	......	......	......
Richmond	15	7	1	7	4	......	......	......	......	......	......	......	......	......	......
Total Upstate	344	78	24	242	42	12	3	5	4	5	3	6	2	1	5
Albany	13	......	1	12	......	......	......	......	......	......	......	......	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Broome	6	1	1	4	2	2	......	......	......	......	2	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Cayuga	3	2	......	1	......	2	......	2	......	......	......	......	......	......	......
Chautauqua	2	1	......	1	1	......	......	......	......	......	......	......	......	......	......
Chemung	13	4	......	9	2	2	......	......	......	......	......	1	......	......	......
Chenango	4	1	......	3	......	......	......	......	......	......	......	......	......	......	......
Clinton	15	7	4	4	......	......	......	......	4	......	......	......	......	......	......
Columbia	1	......	......	1	......	......	......	......	......	......	......	......	......	......	......
Cortland	1	......	......	1	......	......	......	......	......	......	......	......	......	......	......
Delaware	41	......	2	39	......	......	......	......	......	......	......	......	......	......	......
Dutchess	7	4	......	3	......	......	......	......	......	......	......	......	......	......	......
Erie	11	3	2	6	1	......	......	......	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	2	1	1	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	4	1	2	1	4	......	......	......	......	......	......	......	......	......	......
Genesee	2	......	......	2	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	1	......	......	1	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	2	......	......	2	......	......	......	......	......	......	......	......	......	......	......
Madison	6	......	......	6	......	......	......	......	......	......	......	......	......	......	......
Monroe	50	8	6	36	4	2	......	2	......	......	......	......	......	......	5

Table A-7 (concluded)
FAMILY COURT
Reasons for Petitions in Child Protective Proceedings Involving Child Abuse
January 1, 1983 through December 31, 1983

		Reasons for Petition													
		Child Abuse			Neglected Child										
Region County	Total Reasons (Child Abuse Only)	Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental Emotional or Physical Health (Etc.)	Inadequate Food Shelter or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	13	4	2	7	11	......	......	......	......	......	......	......	......	......	......
Niagara	8	4	......	4	......	......	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	39	5	......	34	1	1	2	......	......	1	1	3	1	1	......
Ontario	7	......	......	7	5	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	4	3	......	1	......	......	......	......	......	......	......	......	......	......	......
Oswego	1	......	......	1	......	......	......	......	......	......	......	......	......	......	......
Otsego	2	......	......	2	......	......	......	......	......	......	......	......	......	......	......
Putnam	1	......	......	1	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Rockland	1	......	......	1	......	......	1	1	......	1	......	1	1	......	......
St. Lawrence	4	3	......	1	......	......	......	......	......	......	......	......	......	......	......
Saratoga	2	1	......	1	......	......	......	......	......	......	......	......	......	......	......
Schenectady	6	4	......	2	2	......	......	......	......	......	......	......	......	......	......
Schoharie	3	......	......	3	......	......	......	......	......	......	......	......	......	......	......
Schuyler	1	......	......	1	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	12	......	......	12	......	......	......	......	......	......	......	......	......	......	......
Suffolk	20	6	......	14	2	......	......	......	......	......	......	1	......	......	......
Sullivan	4	3	......	1	......	......	......	......	......	......	......	......	......	......	......
Tioga	6	......	......	6	......	......	......	......	......	......	......	......	......	......	......
Tompkins	3	......	......	3	......	......	......	......	......	......	......	......	......	......	......
Ulster	2	2	......	......	......	......	......	......	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Wayne	9	......	2	7	......	......	......	......	......	......	......	......	......	......	......
Westchester	9	7	1	1	7	3	......	......	......	3	......	......	......	......	......
Wyoming	3	3	......	......	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......

Due to the reporting of multiple reasons for petitions,
the number of reasons exceed the number of petitions reported as initially disposed

Table A-8 (partial)
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Types of Petitioners
January 1, 1983 through December 31, 1983

Region County		Petition Orignated By													
	Total	Respondents Parent	Respondents Child	Respondents Spouse or Former Spouse	Other Members of Respondents Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Courts Motion)	Hospital (On Courts Motion)	Private Medical Doctor (On Courts Motion)	Other
Total New York State	1,778	6	2	5	5	2	......	2	1,605	12	134	......	......	......	5
Total New York City	793	......	1	......	1	1	......	......	650	10	129	......	......	......	1
New York	76	......	......	......	......	......	......	......	74	......	2	......	......	......	......
Kings	259	......	......	......	1	......	......	......	177	5	75	......	......	......	1
Queens	139	......	......	......	......	1	......	......	85	1	52	......	......	......	......
Bronx	274	......	1	......	......	......	......	......	269	4	......	......	......	......	......
Richmond	45	......	......	......	......	......	......	......	45	......	......	......	......	......	......
Total Upstate	985	6	1	5	4	1	......	2	955	2	5	......	......	......	4
Albany	13	......	......	......	......	......	......	......	13	......	......	......	......	......	......
Allegany	1	......	......	......	......	......	......	......	1	......	......	......	......	......	......
Broome	14	......	......	......	......	......	......	......	14	......	......	......	......	......	......
Cattaragus	7	......	......	......	......	......	......	......	7	......	......	......	......	......	......
Cayuga	4	......	......	......	......	......	......	......	4	......	......	......	......	......	......
Chautauqua	5	......	......	......	......	......	......	......	5	......	......	......	......	......	......
Chemung	22	......	......	......	2	......	......	......	20	......	......	......	......	......	......
Chenango	16	......	......	......	......	......	......	......	16	......	......	......	......	......	......
Clinton	28	......	1	......	......	......	......	1	26	......	......	......	......	......	......
Columbia	15	......	......	......	......	......	......	......	15	......	......	......	......	......	......
Cortland	5	......	......	......	......	......	......	......	5	......	......	......	......	......	......
Delaware	54	......	......	......	......	......	......	......	54	......	......	......	......	......	......
Dutchess	33	......	......	1	......	......	......	......	32	......	......	......	......	......	......
Erie	105	......	......	......	......	......	......	......	105	......	......	......	......	......	......
Essex	5	......	......	......	......	......	......	......	5	......	......	......	......	......	......
Franklin	4	......	......	......	......	......	......	......	4	......	......	......	......	......	......
Fulton	21	......	......	......	......	......	......	......	21	......	......	......	......	......	......
Genesee	12	......	......	......	......	......	......	......	12	......	......	......	......	......	......
Greene	6	......	......	......	......	......	......	......	6	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	......	......	......	......	......	......	......	7	......	......	......	......	......	......
Jefferson	18	......	......	......	......	......	......	......	18	......	......	......	......	......	......
Lewis	5	......	......	......	......	......	......	......	5	......	......	......	......	......	......
Livingston	3	......	......	......	......	......	......	......	3	......	......	......	......	......	......
Madison	7	......	......	......	......	......	......	......	7	......	......	......	......	......	......
Monroe	112	2	......	......	1	......	......	1	105	......	......	......	......	......	3
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	60	1	......	......	......	......	......	......	59	......	......	......	......	......	......

Table A-8 (concluded)
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Types of Petitioners
January 1, 1983 through December 31, 1983

	Petition Orignated By														
Region County	Total	Respond-ents Parent	Respond-ents Child	Respond-ents Spouse or Former Spouse	Other Members of Res-pondents Family or House-hold	Corpor-ation Counsel/ County Attorney	Assist-ant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Author-ized Private Agency	School (On Courts Motion)	Hospital (On Courts Motion)	Private Medical Doctor (On Courts Motion)	Other
Niagara	10	......	......	......	......	......	......	......	9	......	......	......	......	......	1
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	95	......	......	......	......	......	......	......	95	......	......	......	......	......	......
Ontario	20	......	......	3	......	......	......	......	17	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	7	......	......	......	......	......	......	......	7	......	......	......	......	......	......
Oswego	2	......	......	......	......	......	......	......	2	......	......	......	......	......	......
Otsego	2	......	......	......	......	......	......	......	2	......	......	......	......	......	......
Putnam	4	......	......	......	......	......	......	......	4	......	......	......	......	......	......
Rensselaer	12	......	......	......	......	......	......	......	12	......	......	......	......	......	......
Rockland	4	......	......	......	......	......	......	......	4	......	......	......	......	......	......
St. Lawrence	8	......	......	......	......	......	......	......	8	......	......	......	......	......	......
Saratoga	5	......	......	......	......	......	......	......	5	......	......	......	......	......	......
Schenectady	12	2	......	......	1	......	......	......	9	......	......	......	......	......	......
Schoharie	3	......	......	......	......	......	......	......	3	......	......	......	......	......	......
Schuyler	3	......	......	......	......	......	......	......	3	......	......	......	......	......	......
Seneca	4	......	......	......	......	......	......	......	4	......	......	......	......	......	......
Steuben	20	......	......	......	......	......	......	......	20	......	......	......	......	......	......
Suffolk	61	......	......	......	......	......	......	......	60	1	......	......	......	......	......
Sullivan	10	......	......	......	......	......	......	......	10	......	......	......	......	......	......
Tioga	8	......	......	......	......	......	......	......	7	1	......	......	......	......	......
Tompkins	3	......	......	......	......	......	......	......	3	......	......	......	......	......	......
Ulster	14	......	......	......	......	......	......	......	14	......	......	......	......	......	......
Warren	4	......	......	......	......	......	......	......	4	......	......	......	......	......	......
Washington	2	......	......	......	......	......	......	......	2	......	......	......	......	......	......
Wayne	23	......	......	......	......	......	......	......	23	......	......	......	......	......	......
Westchester	47	1	......	......	......	1	......	......	40	......	5	......	......	......	......
Wyoming	20	......	......	1	......	......	......	......	19	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......	......	......

Table A-9
FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse (Boys and Girls)
January 1, 1983 through December 31, 1983

Region County	Total*	No Temporary Removal	Temporary Removal		Length of Removal After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or More
Total New York State	1,778	666	269	1,070	62	48	27	43	239	366	250	33	2
Total New York City	793	185	8	608	24	16	1	13	99	244	192	18	1
New York	76	20	2	56	5	1	1	2	14	19	14	......	......
Kings	259	27	2	232	4	8	......	7	29	74	99	11	......
Queens	139	49	4	90	3	1	......	4	9	39	30	4	......
Bronx	274	80	......	194	8	6	......	......	40	104	32	3	1
Richmond	45	9	......	36	4	......	......	......	7	8	17	......	......
Total Upstate	985	481	261	462	38	32	26	30	140	122	58	15	1
Albany	13	9	......	4	......	......	1	2	1	......	......	......	......
Allegany	1	......	......	1	......	......	......	......	......	1	......	......	......
Broome	14	10	......	4	3	......	......	......	......	1	......	......	......
Cattaraugus	7	5	2	2	......	......	......	......	......	......	......	2	......
Cayuga	4	3	......	1	......	......	......	......	......	1	......	......	......
Chautauqua	5	1	......	4	......	......	......	......	2	1	1	......	......
Chemung	22	1	13	19	1	1	2	3	7	5	......	......	......
Chenango	16	10	6	5	......	2	......	......	1	2	......	......	......
Clinton	28	9	11	17	......	......	......	......	4	13	......	......	......
Columbia	15	1	14	13	3	......	......	1	5	4	......	......	......
Cortland	5	2	3	3	......	......	......	......	......	3	......	......	......
Delaware	54	37	1	17	......	......	2	2	6	7	......	......	......
Dutchess	33	4	15	27	......	1	......	3	15	......	8	......	......
Erie	105	45	......	60	4	2	3	1	27	18	5	......	......
Essex	5	1	4	3	2	......	......	......	......	......	1	......	......
Franklin	4	1	......	3	......	1	......	......	1	1	......	......	......
Fulton	21	3	13	18	1	2	......	3	8	3	......	1	......
Genesee	12	5	1	7	2	2	......	......	3	......	......	......	......
Greene	6	2	......	4	......	4	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	......	4	7	......	2	......	1	......	1	3	......	......
Jefferson	18	7	1	11	5	2	......	2	2	......	......	......	......
Lewis	5	1	4	4	......	4	......	......	......	......	......	......	......
Livingston	3	......	......	3	1	......	......	......	......	......	2	......	......
Madison	7	3	1	4	......	1	......	......	......	3	......	......	......
Monroe	112	50	45	56	3	......	8	1	23	16	4	1	......
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	60	40	13	19	1	......	......	......	7	5	5	1	......
Niagara	10	8	1	1	1	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	95	37	41	56	3	5	3	4	10	17	12	2	......
Ontario	20	19	1	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	7	3	......	4	......	......	......	......	......	3	1	......	......
Oswego	2	2	......	......	......	......	......	......	......	......	......	......	......
Otsego	2	2	......	......	......	......	......	......	......	......	......	......	......
Putnam	4	2	......	2	......	......	......	......	......	1	......	1	......
Rensselaer	12	7	5	2	......	......	......	......	2	......	......	......	......
Rockland	4	2	1	2	1	......	......	......	......	......	1	......	......
St. Lawrence	8	5	2	2	......	......	......	......	......	1	1	......	......
Saratoga	5	4	......	1	......	......	......	......	1	......	......	......	......
Schenectady	12	6	6	5	......	2	......	......	3	......	......	......	......
Schoharie	3	......	3	3	......	......	......	......	1	......	2	......	......
Schuyler	3	3	......	......	......	......	......	......	......	......	......	......	......
Seneca	4	3	1	1	......	......	......	......	......	......	1	......	......
Steuben	20	19	......	1	......	......	......	......	......	......	1	......	......
Suffolk	61	28	26	27	1	1	2	2	4	4	6	7	......
Sullivan	10	9	......	1	......	......	......	......	1	......	......	......	......
Tioga	8	6	2	2	......	......	......	......	......	1	1	......	......
Tompkins	3	3	......	......	......	......	......	......	......	......	......	......	......
Ulster	14	2	4	10	......	......	......	......	2	8	......	......	......
Warren	4	1	......	3	1	......	......	2	......	......	......	......	......
Washington	2	2	......	......	......	......	......	......	......	......	......	......	......
Wayne	23	19	......	4	1	......	......	......	......	1	2	......	......
Westchester	47	25	16	13	2	......	5	3	......	1	1	......	1
Wyoming	20	14	1	6	2	......	......	......	4	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......

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*Figures in column 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 227 such proceedings statewide.

Table A-10
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Length Of Time Between Filing Of Petition And Initial Fact-Finding Hearing
January 1, 1983 through December 31, 1983

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without I.F.H.
Total New York State	1,778	352	81	53	87	513	353	97	52	1	189
Total New York City	793	13	17	6	22	273	232	62	19	1	148
New York	76	......	4	1	......	35	29	4	......	1	2
Kings	259	5	5	5	3	70	82	36	......	......	53
Queens	139	1	3	......	4	37	41	17	14	......	22
Bronx	274	7	5	......	15	128	64	1	......	......	54
Richmond	45	......	......	......	......	3	16	4	5	......	17
Total Upstate	985	339	64	47	65	240	121	35	33	......	41
Albany	13	......	1	1	4	6	1	......	......	......	......
Allegany	1	......	......	......	......	1	......	......	......	......	......
Broome	14	6	1	......	1	6	......	......	......	......	......
Cattaraugus	7	4	......	2	......	......	......	......	......	......	1
Cayuga	4	......	1	......	......	2	1	......	......	......	......
Chautauqua	5	1	1	1	......	2	......	......	......	......	......
Chemung	22	4	......	4	1	8	5	......	......	......	......
Chenango	16	......	2	3	2	4	5	......	......	......	......
Clinton	28	......	......	2	......	14	11	......	......	......	1
Columbia	15	4	......	1	1	3	6	......	......	......	......
Cortland	5	1	......	......	......	3	1	......	......	......	......
Delaware	54	8	3	4	......	17	18	......	......	......	4
Dutchess	33	29	......	......	......	1	2	1	......	......	......
Erie	105	95	......	......	3	3	3	1	......	......	......
Essex	5	2	......	......	......	1	......	......	......	......	2
Franklin	4	4	......	......	......	......	......	......	......	......	......
Fulton	21	......	3	......	......	12	4	......	......	......	2
Genesee	12	1	......	3	2	5	1	......	......	......	......
Greene	6	6	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	1	2	1	1	2	......	......	......	......	......
Jefferson	18	14	1	......	3	......	......	......	......	......	......
Lewis	5	5	......	......	......	......	......	......	......	......	......
Livingston	3	1	......	......	......	......	......	2	......	......	......
Madison	7	2	2	......	......	1	2	......	......	......	......
Monroe	112	6	2	1	2	46	23	3	2	......	27
Montgomery	......	......	......	......	......	......	......	......	......	......	......
Nassau	60	15	1	8	24	7	......	2	3	......	......
Niagara	10	4	2	1	......	......	3	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	95	24	1	2	6	25	15	17	5	......	......
Ontario	20	4	......	1	2	9	2	1	1	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	7	......	......	......	1	4	......	......	......	......	2
Oswego	2	......	......	......	......	1	1	......	......	......	......
Otsego	2	......	......	......	......	2	......	......	......	......	......
Putnam	4	1	......	......	......	2	1	......	......	......	......
Rensselaer	12	7	4	1	......	......	......	......	......	......	......
Rockland	4	1	......	......	......	2	......	......	1	......	......
St. Lawrence	8	3	......	......	......	2	3	......	......	......	......
Saratoga	5	......	1	......	3	1	......	......	......	......	......
Schenectady	12	......	2	......	......	8	2	......	......	......	......
Schoharie	3	2	......	......	......	1	......	......	......	......	......
Schuyler	3	2	......	......	......	1	......	......	......	......	......
Seneca	4	......	......	......	......	3	1	......	......	......	......
Steuben	20	......	5	4	......	8	......	1	2	......	......
Suffolk	61	31	4	1	1	9	5	3	7	......	......
Sullivan	10	5	5	......	......	......	......	......	......	......	......
Tioga	8	6	1	1	......	......	......	......	......	......	......
Tompkins	3	......	......	......	......	3	......	......	......	......	......
Ulster	14	1	2	......	......	......	2	......	9	......	......
Warren	4	4	......	......	......	......	......	......	......	......	......
Washington	2	......	......	1	......	1	......	......	......	......	......
Wayne	23	3	......	3	4	9	1	3	......	......	......
Westchester	47	13	17	1	4	4	2	1	3	......	2
Wyoming	20	19	......	......	......	1	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-11
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*
January 1, 1983 through December 31, 1983

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	1,575	429	202	181	223	129	130	79	60	50	31	61
Total New York City	643	15	28	76	151	72	87	63	42	36	23	50
New York	74	3	3	8	22	9	12	7	6	2	......	2
Kings	204	5	9	23	59	18	32	12	9	7	9	21
Queens	117	2	......	12	26	16	16	11	4	12	4	14
Bronx	220	......	14	33	42	23	27	27	21	11	9	13
Richmond	28	5	2	......	2	6	......	6	2	4	1	......
Total Upstate	932	414	174	105	72	57	43	16	18	14	8	11
Albany	13	3	4	3	2	......	1	......	......	......	......	......
Allegany	1	......	......	1	......	......	......	......	......	......	......	......
Broome	14	11	2	......	1	......	......	......	......	......	......	......
Cattaraugus	6	4	2	......	......	......	......	......	......	......	......	......
Cayuga	4	1	3	......	......	......	......	......	......	......	......	......
Chautauqua	5	1	4	......	......	......	......	......	......	......	......	......
Chemung	22	4	8	7	1	2	......	......	......	......	......	......
Chenango	14	14	......	......	......	......	......	......	......	......	......	......
Clinton	27	27	......	......	......	......	......	......	......	......	......	......
Columbia	15	9	5	1	......	......	......	......	......	......	......	......
Cortland	5	5	......	......	......	......	......	......	......	......	......	......
Delaware	50	50	......	......	......	......	......	......	......	......	......	......
Dutchess	33	......	23	......	......	10	......	......	......	......	......	......
Erie	105	105	......	......	......	......	......	......	......	......	......	......
Essex	3	2	1	......	......	......	......	......	......	......	......	......
Franklin	4	3	1	......	......	......	......	......	......	......	......	
Fulton	19	4	4	10	......	......	1	......	......	......	......	......
Genesee	12	......	2	4	5	1	......	......	......	......	......	......
Greene	6	6	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	3	2	......	2	......	......	......	......	......	......	......
Jefferson	18	16	2	......	......	......	......	......	......	......	......	......
Lewis	5	......	5	......	......	......	......	......	......	......	......	......
Livingston	3	1	......	2	......	......	......	......	......	......	......	......
Madison	7	3	1	1	1	1	......	......	......	......	......	......
Monroe	85	18	......	12	14	7	9	2	7	11	3	2
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	60	27	10	5	4	6	......	1	3	......	1	3
Niagara	10	9	1	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	95	2	6	6	20	20	17	8	6	3	4	3
Ontario	20	4	4	11	......	1	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	5	......	4	1	......	......	......	......	......	......	......	......
Oswego	2	1	1	......	......	......	......	......	......	......	......	......
Otsego	2	......	2	......	......	......	......	......	......	......	......	......
Putnam	4	1	2	......	1	......	......	......	......	......	......	......
Rensselaer	12	6	4	2	......	......	......	......	......	......	......	......
Rockland	4	2	1	......	1	......	......	......	......	......	......	......
St. Lawrence	8	2	2	2	1	1	......	......	......	......	......	......
Saratoga	5	......	2	2	1	......	......	......	......	......	......	......
Schenectady	12	2	......	7	2	1	......	......	......	......	......	......
Schoharie	3	......	1	......	2	......	......	......	......	......	......	......
Schuyler	3	2	1	......	......	......	......	......	......	......	......	......
Seneca	4	......	3	......	......	1	......	......	......	......	......	......
Steuben	19	9	6	1	2	......	......	1	......	......	......	......
Suffolk	52	15	15	10	3	1	2	3	1	......	......	2
Sullivan	10	8	......	2	......	......	......	......	......	......	......	......
Tioga	8	......	8	......	......	......	......	......	......	......	......	......
Tompkins	3	......	......	1	2	......	......	......	......	......	......	......
Ulster	14	3	......	......	......	2	9	......	......	......	......	......
Warren	4	......	......	1	2	......	1	......	......	......	......	......
Washington	2	1	1	......	......	......	......	......	......	......	......	......
Wayne	23	......	6	9	3	1	1	1	1	......	......	1
Westchester	45	15	20	4	2	2	2	......	......	......	......	......
Wyoming	20	15	5	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

*This table includes only cases in which there was an initial fact-finding hearing.

Table A-12
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Length Of Time Between Initial Fact-Finding Hearing and Dispositional Hearing
January 1, 1983 through December 31, 1983

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without I.F.H.
Total New York State	1,778	456	36	17	21	464	320	180	85	10	189
Total New York City	793	98	7	......	2	280	183	66	5	4	148
New York	76	14	5	......	......	29	9	17	......	......	2
Kings	259	39	1	......	1	60	65	39	1	......	53
Queens	139	25	1	......	1	33	44	6	3	4	22
Bronx	274	12	......	......	......	149	55	4	......	......	54
Richmond	45	8	......	......	......	9	10	......	1	......	17
Total Upstate	985	358	29	17	19	184	137	114	80	6	41
Albany	13	8	......	......	......	4	......	1	......	......	......
Allegany	1	......	......	......	......	......	1	......	......	......	......
Broome	14	9	2	......	......	2	1	......	......	......	......
Cattaraugus	7	......	......	......	......	2	......	......	4	......	1
Cayuga	4	2	......	......	......	2	......	......	......	......	......
Chautauqua	5	......	......	......	......	1	3	1	......	......	......
Chemung	22	18	......	......	3	1	......	......	......	......	......
Chenango	16	7	......	......	......	......	9	......	......	......	......
Clinton	28	22	......	......	......	3	......	2	......	......	1
Columbia	15	14	......	......	......	1	......	......	......	......	......
Cortland	5	1	......	......	......	1	2	1	......	......	......
Delaware	54	11	5	......	......	22	12	......	......	......	4
Dutchess	33	......	2	......	2	1	4	17	7	......	......
Erie	105	12	2	6	1	30	24	18	12	......	......
Essex	5	1	......	......	......	......	1	1	......	......	2
Franklin	4	1	1	......	......	1	1	......	......	......	......
Fulton	21	6	......	......	......	......	......	7	5	1	2
Genesee	12	7	......	......	......	2	......	1	2	......	......
Greene	6	6	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	3	......	......	......	1	......	3	......	......	......
Jefferson	18	10	......	......	5	2	......	1	......	......	......
Lewis	5	......	5	......	......	......	......	......	......	......	......
Livingston	3	3	......	......	......	......	......	......	......	......	......
Madison	7	2	1	......	......	2	2	......	......	......	......
Monroe	112	46	4	4	6	17	2	3	3	......	27
Montgomery	......	......	......	......	......	......	......	......	......	......	......
Nassau	60	1	......	......	......	19	18	7	14	1	......
Niagara	10	2	......	......	......	......	3	4	1	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	95	47	1	6	1	21	11	7	1	......	......
Ontario	20	19	......	......	......	......	......	1	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	7	......	......	......	......	4	1	......	......	......	2
Oswego	2	1	......	......	......	1	......	......	......	......	......
Otsego	2	......	......	......	......	1	1	......	......	......	......
Putnam	4	1	......	......	......	......	......	2	1	......	......
Rensselaer	12	3	......	......	......	2	7	......	......	......	......
Rockland	4	......	......	......	......	1	1	1	......	1	......
St. Lawrence	8	6	......	1	......	1	......	......	......	......	......
Saratoga	5	3	1	......	......	......	......	1	......	......	......
Schenectady	12	7	3	......	......	2	......	......	......	......	......
Schoharie	3	1	......	......	......	......	......	2	......	......	......
Schuyler	3	3	......	......	......	......	......	......	......	......	......
Seneca	4	......	......	......	......	1	3	......	......	......	......
Steuben	20	12	......	......	......	8	......	......	......	......	......
Suffolk	61	17	......	......	......	3	6	14	19	2	......
Sullivan	10	6	......	......	......	1	3	......	......	......	......
Tioga	8	......	......	......	......	1	4	3	......	......	......
Tompkins	3	1	2	......	......	......	......	......	......	......	......
Ulster	14	9	......	......	......	3	......	2	......	......	......
Warren	4	......	......	......	......	......	2	1	1	......	......
Washington	2	2	......	......	......	......	......	......	......	......	......
Wayne	23	15	......	......	......	1	4	2	1	......	......
Westchester	47	8	......	......	1	10	9	9	7	1	2
Wyoming	20	5	......	......	......	9	2	2	2	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-13
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*
January 1, 1983 through December 31, 1983

	Number of Adjournments											
Region County	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	1,570	523	382	260	148	83	44	47	24	12	14	33
Total New York City	640	74	211	142	89	37	32	17	16	......	11	11
New York	72	14	23	11	13	2	3	1	4	......	1	......
Kings	205	24	65	32	27	19	13	6	8	......	4	7
Queens	116	15	30	17	23	9	10	5	......	......	4	3
Bronx	219	18	89	64	25	7	6	5	4	......	......	1
Richmond	28	3	4	18	1	......	......	......	......	......	2	......
Total Upstate	930	449	171	118	59	46	12	30	8	12	3	22
Albany	13	5	5	3	......	......	......	......	......	......	......	......
Allegany	1	......	......	......	......	1	......	......	......	......	......	......
Broome	14	11	1	2	......	......	......	......	......	......	......	......
Cattaraugus	6	......	4	......	......	......	......	2	......	......	......	......
Cayuga	4	2	2	......	......	......	......	......	......	......	......	......
Chautauqua	5	......	2	2	......	......	......	1	......	......	......	......
Chemung	22	21	1	......	......	......	......	......	......	......	......	......
Chenango	14	12	......	2	......	......	......	......	......	......	......	......
Clinton	27	27	......	......	......	......	......	......	......	......	......	......
Columbia	15	12	3	......	......	......	......	......	......	......	......	......
Cortland	5	5	......	......	......	......	......	......	......	......	......	......
Delaware	50	42	8	......	......	......	......	......	......	......	......	......
Dutchess	33	......	6	9	3	2	......	6	1	......	......	6
Erie	105	5	14	13	24	17	6	9	1	7	3	6
Essex	3	2	1	......	......	......	......	......	......	......	......	......
Franklin	4	1	1	2	......	......	......	......	......	......	......	......
Fulton	19	12	3	2	1	1	......	......	......	......	......	......
Genesee	11	7	2	2	......	......	......	......	......	......	......	......
Greene	6	6	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	5	......	1	1	......	......	......	......	......	......	......
Jefferson	18	10	5	3	......	......	......	......	......	......	......	......
Lewis	5	5	......	......	......	......	......	......	......	......	......	......
Livingston	3	3	......	......	......	......	......	......	......	......	......	......
Madison	7	3	4	......	......	......	......	......	......	......	......	......
Monroe	83	47	15	7	7	4	1	......	......	......	......	2
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	58	5	20	15	8	7	2	1	......	......	......	......
Niagara	10	5	2	3	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	93	72	9	7	4	1	......	......	......	......	......	......
Ontario	20	19	1	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	5	......	5	......	......	......	......	......	......	......	......	......
Oswego	2	1	1	......	......	......	......	......	......	......	......	......
Otsego	2	1	......	1	......	......	......	......	......	......	......	......
Putnam	4	2	1	......	1	......	......	......	......	......	......	......
Rensselaer	12	5	......	7	......	......	......	......	......	......	......	......
Rockland	4	3	......	1	......	......	......	......	......	......	......	......
St. Lawrence	7	5	2	......	......	......	......	......	......	......	......	......
Saratoga	5	4	1	......	......	......	......	......	......	......	......	......
Schenectady	10	5	3	2	......	......	......	......	......	......	......	......
Schoharie	3	3	......	......	......	......	......	......	......	......	......	......
Schuyler	3	3	......	......	......	......	......	......	......	......	......	......
Seneca	4	......	1	......	3	......	......	......	......	......	......	......
Steuben	20	9	10	1	......	......	......	......	......	......	......	......
Suffolk	61	6	5	8	3	7	3	11	5	5	......	8
Sullivan	10	5	3	2	......	......	......	......	......	......	......	......
Tioga	8	......	4	4	......	......	......	......	......	......	......	......
Tompkins	3	3	......	......	......	......	......	......	......	......	......	......
Ulster	14	9	1	4	......	......	......	......	......	......	......	......
Warren	4	4	......	......	......	......	......	......	......	......	......	......
Washington	2	2	......	......	......	......	......	......	......	......	......	......
Wayne	21	14	3	3	1	......	......	......	......	......	......	......
Westchester	45	12	16	7	3	6	......	......	1	......	......	......
Wyoming	20	9	6	5	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

*This table includes only cases in which there was an initial fact-finding hearing.

Table A-14
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Child Abuse
Reason For Petition Abuse Only
January 1, 1983 through December 31, 1983

		Court Finding at Dispositional Hearings				Court Findings Based on	
Region County	Total	Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	1,467	533	508	86	340	757	710
Total New York City	680	245	238	77	120	416	264
New York	68	23	34	......	11	37	31
Kings	185	67	63	17	38	101	84
Queens	127	42	51	3	31	60	67
Bronx	274	105	83	55	31	205	69
Richmond	26	8	7	2	9	13	13
Total Upstate	787	288	270	9	220	341	446
Albany	13	13	......	......	......	13	......
Allegany	1	......	......	......	1	......	1
Broome	7	5	1	......	1	5	2
Cattaraugus	7	......	1	......	6	4	3
Cayuga	1	1	......	......	......	1	......
Chautauqua	4	1	......	1	2	......	4
Chemung	14	10	4	......	......	1	13
Chenango	13	4	6	......	3	4	9
Clinton	24	13	3	......	8	20	4
Columbia	15	1	2	......	12	2	13
Cortland	2	1	1	......	......	2	......
Delaware	54	41	8	......	5	31	23
Dutchess	33	7	21	......	5	14	19
Erie	104	11	57	......	36	31	73
Essex	5	......	1	......	4	2	3
Franklin	4	2	1	......	1	3	1
Fulton	4	......	4	......	......	......	4
Genesee	10	2	5	......	3	......	10
Greene	6	......	......	......	6	......	6
Hamilton	......	......	......	......	......	......	......
Herkimer	3	1	2	......	......	......	3
Jefferson	18	......	8	......	10	......	18
Lewis	5	......	5	......	......	......	5
Livingston	3	2	1	......	......	2	1
Madison	7	6	......	......	1	3	4
Monroe	95	37	36	2	20	61	34
Montgomery	......	......	......	......	......	......	......
Nassau	6	......	3	2	1	3	3
Niagria	10	6	3	......	1	6	4
Oneida	......	......	......	......	......	......	......
Onondaga	83	36	36	1	10	56	27
Ontario	15	7	......	......	8	6	9
Orange	......	......	......	......	......	......	......
Orleans	7	4	2	......	1	6	1
Oswego	2	1	......	......	1	......	2
Otsego	2	2	......	......	......	......	2
Putnam	4	1	1	......	2	......	4
Rensselaer	8	......	......	......	8	......	8
Rockland	2	......	1	......	1	1	1
St. Lawrence	8	4	......	......	4	......	8
Saratoga	5	2	3	......	......	......	5
Schenectady	4	4	......	......	......	......	4
Schoharie	3	3	......	......	......	......	3
Schuyler	3	1	2	......	......	......	3
Seneca	1	......	1	......	......	......	1
Steuben	20	12	2	......	6	16	4
Suffolk	58	19	23	......	16	13	45
Sullivan	10	4	......	......	6	4	6
Tioga	8	6	2	......	......	5	3
Tompkins	3	3	......	......	......	......	3
Ulster	5	2	......	......	3	5	......
Warren	4	......	......	......	4	......	4
Washington	2	......	1	......	1	1	1
Wayne	23	8	7	......	8	17	6
Westchester	29	4	11	1	13	......	29
Wyoming	10	1	5	2	2	3	7
Yates	......	......	......	......	......	......	......

Table A-15
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Child Abuse
Reason For Petition Both Abuse and Neglect
January 1, 1983 through December 31, 1983

Region County	Total	Court Finding at Dispositional Hearings				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	266	32	138	25	71	115	151
Total New York City	91	9	62	11	9	52	39
New York	5	......	5	......	......	5	......
Kings	58	2	42	11	3	31	27
Queens	9	3	6	......	......	5	4
Bronx	......	......	......	......	......	......	......
Richmond	19	4	9	......	6	11	8
Total Upstate	175	23	76	14	62	63	112
Albany	......	......	......	......	......	......	......
Allegany	......	......	......	......	......	......	......
Broome	5	......	3	......	2	1	4
Cattaraugus	......	......	......	......	......	......	......
Cayuga	3	2	......	......	1	......	3
Chautauqua	......	......	......	......	......	......	......
Chemung	8	3	5	......	......	......	8
Chenango	3	......	3	......	......	......	3
Clinton	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......
Cortland	3	......	3	......	......	3	......
Delaware	......	......	......	......	......	......	......
Dutchess	......	......	......	......	......	......	......
Erie	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......
Fulton	16	3	4	......	9	2	14
Genesee	2	......	2	......	......	......	2
Greene	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......
Herkimer	4	......	4	......	......	1	3
Jefferson	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......
Monroe	16	9	2	......	5	11	5
Montgomery	......	......	......	......	......	......	......
Nassau	54	1	26	10	17	23	31
Niagara	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......
Onondaga	10	1	7	1	1	9	1
Ontario	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......
Rensselaer	4	......	......	......	4	......	4
Rockland	2	1	1	......	......	2	......
St. Lawrence	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......
Schenectady	8	2	2	......	4	2	6
Schoharie	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......
Seneca	3	......	3	......	......	3	......
Steuben	......	......	......	......	......	......	......
Suffolk	1	1	......	......	......	......	1
Sullivan	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......
Ulster	9	......	......	......	9	6	3
Warren	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......
Westchester	14	......	11	3	......	......	14
Wyoming	10	......	......	......	10	......	10
Yates	......	......	......	......	......	......	......

Table A-16
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Chile Abuse
Reason for Petition Neglect Only
January 1, 1983 through December 31, 1983

Region County	Total	Court Finding at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	4,748	35	2,889	10	1,814	1,923	2,825
Total New York City	2,013	16	1,491	6	500	988	1,025
New York	493	3	358	......	132	261	232
Kings	631	11	522	5	93	274	357
Queens	376	2	249	1	124	142	234
Bronx	390	......	283	......	107	273	117
Richmond	123	......	79	......	44	38	85
Total Upstate	2,735	19	1,398	4	1,314	935	1,800
Albany	72	......	72	......	......	72	......
Allegany	10	......	1	......	9	6	4
Broome	30	......	22	2	6	19	11
Cattaraugus	78	......	35	......	43	20	58
Cayuga	6	......	5	......	1	6	......
Chautauqua	55	......	37	1	17	10	45
Chemung	82	......	66	......	16	......	82
Chenango	16	......	5	......	11	2	14
Clinton	13	4	9	......	......	13	......
Columbia	28	......	2	......	26	......	28
Cortland	33	......	33	......	......	31	2
Delaware	19	......	18	......	1	15	4
Dutchess	25	......	17	......	8	4	21
Erie	347	1	142	......	204	128	219
Essex	14	......	12	......	2	9	5
Franklin	19	......	4	......	15	4	15
Fulton	35	1	3	......	31	......	35
Genesee	25	......	12	......	13	1	24
Greene	20	......	1	......	19	1	19
Hamilton	1	......	......	......	1	......	1
Herkimer	5	......	......	......	5	......	5
Jefferson	42	......	2	......	40	......	42
Lewis	......	......	......	......	......	......	......
Livingston	10	......	4	......	6	6	4
Madison	24	......	17	......	7	5	19
Monroe	244	1	97	......	146	83	161
Montgomery	4	......	......	......	4	......	4
Nassau	285	......	186	......	99	103	182
Niagara	71	......	36	......	35	19	52
Oneida	......	......	......	......	......	......	......
Onondaga	247	2	161	......	84	142	105
Ontario	42	5	14	......	23	13	29
Orange	2	......	1	......	1	......	2
Orleans	24	......	16	......	8	23	1
Oswego	10	......	2	......	8	1	9
Otsego	23	......	16	......	7	11	12
Putnam	8	......	......	......	8	1	7
Rensselaer	11	......	......	......	11	......	11
Rockland	55	......	30	......	25	7	48
St. Lawrence	16	......	8	......	8	5	11
Saratoga	33	......	15	......	18	4	29
Schenectady	20	......	11	......	9	8	12
Schoharie	52	......	33	......	19	16	36
Schuyler	6	......	3	......	3	1	5
Seneca	13	......	6	......	7	3	10
Steuben	26	......	3	......	23	7	19
Suffolk	227	2	92	......	133	34	193
Sullivan	25	......	4	......	21	4	21
Tioga	22	......	13	......	9	11	11
Tompkins	1	......	1	......	......	......	1
Ulster	11	......	5	......	6	4	7
Warren	8	......	2	......	6	1	7
Washington	27	......	25	......	2	25	2
Wayne	21	......	12	......	9	13	8
Westchester	175	3	75	1	96	32	143
Wyoming	17	......	12	......	5	12	5
Yates	......	......	......	......	......	......	......

Table A-17 (partial)
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse
January 1, 1983 through December 31, 1983

Region County	Total	Withdrawn	Dismissed	Judgment Susp-Ended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Person Under Private Agency Supervision	Probation	Order of Protection	Transferred to a Court With Criminal Jurisdiction
Total New York State	1,778	173	317	19	65	317	17	2	165	7
Total New York City	793	67	117	4	28	140	10	—	54	—
New York	76	6	7	—	8	14	—	—	1	—
Kings	259	23	33	4	2	17	4	—	28	—
Queens	139	17	23	—	10	25	6	—	8	—
Bronx	274	19	39	—	6	75	—	—	17	—
Richmond	45	2	15	—	2	9	—	—	—	—
Total Upstate	985	106	200	15	37	177	7	2	111	7
Albany	13	1	5	—	—	1	—	—	—	—
Allegany	1	—	1	—	—	—	—	—	—	—
Broome	14	—	1	1	—	5	—	—	—	—
Cattaraugus	7	—	6	—	—	—	—	—	—	—
Cayuga	4	—	—	—	—	2	—	—	—	—
Chautauqua	5	—	—	—	—	—	—	—	—	—
Chemung	22	1	—	—	—	8	—	—	—	—
Chenango	16	—	—	—	1	6	1	—	—	—
Clinton	28	1	9	—	1	4	—	—	1	—
Columbia	15	7	4	—	1	—	—	—	—	—
Cortland	5	—	—	—	1	—	—	—	—	—
Delaware	54	4	1	4	8	8	—	—	9	—
Dutchess	33	1	2	1	—	1	—	—	—	—
Erie	105	1	36	—	—	17	—	—	23	—
Essex	5	—	2	—	—	1	—	—	—	1
Franklin	4	1	—	—	—	—	—	—	—	—
Fulton	21	3	12	—	—	1	—	—	—	—
Genesee	12	—	3	—	—	3	—	—	2	—
Greene	6	4	—	—	—	—	—	—	—	2
Hamilton	—	—	—	—	—	—	—	—	—	—
Herkimer	7	—	1	—	—	—	—	—	—	—
Jefferson	18	1	2	—	2	4	—	—	—	—
Lewis	5	—	—	—	—	—	—	—	—	—
Livingston	3	—	1	—	—	2	—	—	—	—
Madison	7	1	—	—	—	1	—	—	3	—
Monroe	112	7	22	—	5	33	3	—	4	2
Montgomery	—	—	—	—	—	—	—	—	—	—
Nassau	60	3	16	—	2	14	1	—	8	—
Niagara	10	—	2	1	1	2	2	—	2	—
Oneida	—	—	—	—	—	—	—	—	—	—
Onondaga	95	4	16	—	7	15	—	—	5	—
Ontario	20	1	4	—	—	2	—	—	11	—
Orange	—	—	—	—	—	—	—	—	—	—
Orleans	7	1	1	—	1	—	—	—	—	—
Oswego	2	—	—	—	1	—	—	—	1	—
Otsego	2	—	—	—	—	—	—	—	1	—
Putnam	4	1	2	—	—	—	—	—	1	—
Rensselaer	12	3	3	—	—	6	—	—	—	—
Rockland	4	—	2	—	—	1	—	—	—	—
St. Lawrence	8	—	1	—	—	3	—	—	—	2
Saratoga	5	—	1	—	—	1	—	—	2	—
Schenectady	12	4	—	—	—	4	—	—	—	—
Schoharie	3	—	—	—	—	—	—	—	1	—
Schuyler	3	—	—	1	—	1	—	—	1	—
Seneca	4	—	—	—	—	4	—	—	—	—
Steuben	20	2	3	1	—	—	—	—	14	—
Suffolk	61	16	23	—	1	11	—	—	2	—
Sullivan	10	2	—	4	2	—	—	—	2	—
Tioga	8	1	—	1	2	2	—	—	1	—
Tompkins	3	—	—	—	—	—	—	2	1	—
Ulster	14	9	2	—	—	—	—	—	—	—
Warren	4	—	4	—	—	—	—	—	—	—
Washington	2	—	1	—	—	1	—	—	—	—
Wayne	23	7	5	1	1	—	—	—	8	—
Westchester	47	15	6	—	—	13	—	—	2	—
Wyoming	20	4	—	—	—	—	—	—	6	—
Yates	—	—	—	—	—	—	—	—	—	—

Table A-17 (concluded)
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse
January 1, 1983 through December 31, 1983

Region County	Transferred to Family Court in Another County	Consolidated With Another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child From Home and Placement With relative	Removal of Child From Home and Placement With Non relative	Removal of Child From Home and Placement With Public Social Services Department or Officer	Removal of Child From Home and Placement With Private Institution	Removal of Child From Home and Placement With Other Authorized Agency	Other
Total New York State	8	5	—	—	24	5	635	1	1	17
Total New York City	1	2	—	—	7	1	348	1	—	13
New York	—	—	—	—	—	—	40	—	—	—
Kings	—	—	—	—	2	—	135	1	—	10
Queens	1	2	—	—	5	1	39	—	—	2
Bronx	—	—	—	—	—	—	118	—	—	—
Richmond	—	—	—	—	—	—	16	—	—	1
Total Upstate	7	3	—	—	17	4	287	—	1	4
Albany	—	—	—	—	3	—	3	—	—	—
Allegany	—	—	—	—	—	—	—	—	—	—
Broome	—	—	—	—	—	—	7	—	—	—
Cattaraugus	1	—	—	—	—	—	—	—	—	—
Cayuga	—	—	—	—	—	—	2	—	—	—
Chautauqua	—	—	—	—	—	—	5	—	—	—
Chemung	—	—	—	—	—	—	13	—	—	—
Chenango	—	—	—	—	—	—	8	—	—	—
Clinton	—	—	—	—	—	—	12	—	—	—
Columbia	—	2	—	—	—	—	1	—	—	—
Cortland	—	—	—	—	1	2	1	—	—	—
Delaware	—	—	—	—	—	—	20	—	—	—
Dutchess	3	—	—	—	—	—	25	—	—	—
Erie	—	—	—	—	1	—	27	—	—	—
Essex	—	—	—	—	—	—	1	—	—	—
Franklin	—	—	—	—	—	—	3	—	—	—
Fulton	—	—	—	—	—	—	5	—	—	—
Genesee	—	—	—	—	—	—	4	—	—	—
Greene	—	—	—	—	—	—	—	—	—	—
Hamilton	—	—	—	—	—	—	—	—	—	—
Herkimer	—	—	—	—	2	—	4	—	—	—
Jefferson	—	—	—	—	—	—	9	—	—	—
Lewis	—	—	—	—	—	—	5	—	—	—
Livingston	—	—	—	—	—	—	—	—	—	—
Madison	—	—	—	—	—	—	2	—	—	—
Monroe	2	1	—	—	2	—	31	—	—	—
Montgomery	—	—	—	—	—	—	—	—	—	—
Nassau	—	—	—	—	—	—	16	—	—	—
Niagara	—	—	—	—	—	—	—	—	—	—
Oneida	—	—	—	—	—	—	—	—	—	—
Onondaga	—	—	—	—	—	1	46	—	—	1
Ontario	—	—	—	—	—	—	2	—	—	—
Orange	—	—	—	—	—	—	—	—	—	—
Orleans	—	—	—	—	—	—	4	—	—	—
Oswego	—	—	—	—	—	—	—	—	—	—
Otsego	—	—	—	—	—	—	1	—	—	—
Putnam	—	—	—	—	—	—	—	—	—	—
Rensselaer	—	—	—	—	—	—	—	—	—	—
Rockland	—	—	—	—	—	—	1	—	—	—
St. Lawrence	—	—	—	—	—	—	2	—	—	—
Saratoga	—	—	—	—	—	—	1	—	—	—
Schenectady	—	—	—	—	2	—	2	—	—	—
Schoharie	—	—	—	—	1	—	1	—	—	—
Schuyler	—	—	—	—	—	—	—	—	—	—
Seneca	—	—	—	—	—	—	—	—	—	—
Steuben	—	—	—	—	—	—	—	—	—	—
Suffolk	1	—	—	—	—	—	3	—	1	3
Sullivan	—	—	—	—	—	—	—	—	—	—
Tioga	—	—	—	—	—	—	1	—	—	—
Tompkins	—	—	—	—	—	—	—	—	—	—
Ulster	—	—	—	—	1	—	2	—	—	—
Warren	—	—	—	—	—	—	—	—	—	—
Washington	—	—	—	—	—	—	—	—	—	—
Wayne	—	—	—	—	—	1	—	—	—	—
Westchester	—	—	—	—	—	—	11	—	—	—
Wyoming	—	—	—	—	4	—	6	—	—	—
Yates	—	—	—	—	—	—	—	—	—	—

Table A-18
FAMILY COURT
Child Protective Petitions Involving Child Abuse
Disposed of between January 1, 1983 and December 31, 1983

Region County	Total	Petition Filed Prior to January 1, 1983	Petition Filed on or After January 1, 1983
Total New York State	1,778	834	944
Total New York City	793	467	326
New York	76	25	51
Kings	259	187	72
Queens	139	75	64
Bronx	274	148	126
Richmond	45	32	13
Total Upstate	985	367	618
Albany	13	1	12
Allegany	1	......	1
Broome	14	3	11
Cattaraugus	7	4	3
Cayuga	4	3	1
Chautauqua	5	2	3
Chemung	22	2	20
Chenango	16	1	15
Clinton	28	13	15
Columbia	15	3	12
Cortland	5	3	2
Delaware	54	1	53
Dutchess	33	10	23
Erie	105	30	75
Essex	5	4	1
Franklin	4	1	3
Fulton	21	16	5
Genesee	12	3	9
Greene	6	......	6
Hamilton	......	......	......
Herkimer	7	3	4
Jefferson	18	1	17
Lewis	5	......	5
Livingston	3	2	1
Madison	7	4	3
Monroe	112	40	72
Montgomery	......	......	......
Nassau	60	34	26
Niagara	10	5	5
Oneida	......	......	......
Onondaga	95	44	51
Ontario	20	3	17
Orange	......	......	......
Orleans	7	2	5
Oswego	2	1	1
Otsego	2	......	2
Putnam	4	3	1
Rensselaer	12	......	12
Rockland	4	3	1
St. Lawrence	8	1	7
Saratoga	5	1	4
Schenectady	12	4	8
Schoharie	3	3	......
Schuyler	3	......	3
Seneca	4	1	3
Steuben	20	3	17
Suffolk	61	42	19
Sullivan	10	......	10
Tioga	8	5	3
Tompkins	3	1	2
Ulster	14	11	3
Warren	4	2	2
Washington	2	......	2
Wayne	23	7	16
Westchester	47	37	10
Wyoming	20	4	16
Yates	......	......	......

Table A-19
FAMILY COURT
Child Abuse Part Statistics*
January 1, 1983 through December 31, 1983

			Courts Having Child Abuse Part			Courts Not Having Child Abuse Part
Region County	Total	Number Disposed Not Indicating Whether Court Has a Child Abuse Part	Number of Cases Disposed in Child Abuse Part	Number of Cases Disposed in Other Than Child Abuse Part	Number Not Indicating Where Disposed	Number of Cases Disposed
Total New York State	1,733	3	906	31	......	793
Total New York City	771	1	672	30	......	68
New York	73	1	64	6	......	2
Kings	243	......	211	18	......	14
Queens	136	......	123	6	......	7
Bronx	274	......	274	......	......	......
Richmond	45	......	......	......	......	45
Total Upstate	962	2	234	1	......	725
Albany	13	......	1	......	......	12
Allegany	1	......	......	......	......	1
Broome	12	......	......	......	......	12
Cattaraugus	7	......	......	......	......	7
Cayuga	4	......	......	......	......	4
Chautauqua	4	......	......	......	......	4
Chemung	22	......	4	......	......	18
Chenango	16	......	......	......	......	16
Clinton	24	......	......	......	......	24
Columbia	15	......	......	......	......	15
Cortland	5	......	......	......	......	5
Delaware	54	......	......	......	......	54
Dutchess	33	......	29	......	......	4
Erie	104	......	100	......	......	4
Essex	5	......	......	......	......	5
Franklin	4	......	......	......	......	4
Fulton	20	......	......	......	......	20
Genesee	12	......	......	......	......	12
Greene	6	......	......	......	......	6
Hamilton	......	......	......	......	......	......
Herkimer	7	......	1	......	......	6
Jefferson	18	......	......	......	......	18
Lewis	5	......	......	......	......	5
Livingston	3	......	......	......	......	3
Madison	7	......	......	......	......	7
Monroe	111	......	1	......	......	110
Montgomery	......	......	......	......	......	......
Nassau	60	......	9	......	......	51
Niagara	10	......	......	......	......	10
Oneida	......	......	......	......	......	......
Onondaga	93	......	56	......	......	37
Ontario	15	......	1	......	......	14
Orange	......	......	......	......	......	......
Orleans	7	......	......	......	......	7
Oswego	2	......	......	......	......	2
Otsego	2	......	......	......	......	2
Putnam	4	......	4	......	......	......
Rensselaer	12	......	......	......	......	12
Rockland	4	......	1	......	......	3
St. Lawrence	8	......	......	......	......	8
Saratoga	5	......	......	......	......	5
Schenectady	12	......	......	......	......	12
Schoharie	3	......	......	......	......	3
Schuyler	3	......	......	......	......	3
Seneca	4	......	......	......	......	4
Steuben	20	......	......	......	......	20
Suffolk	59	......	23	1	......	35
Sullivan	10	1	......	......	......	9
Tioga	8	......	......	......	......	8
Tompkins	3	......	......	......	......	3
Ulster	14	......	1	......	......	13
Warren	4	......	......	......	......	4
Washington	2	......	......	......	......	2
Wayne	23	......	......	......	......	23
Westchester	43	......	3	......	......	40
Wyoming	20	1	......	......	......	19
Yates	......	......	......	......	......	......

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*This table includes only cases in which the reason for petition was abuse or both abuse and neglect regardless of court finding JC-102.40 both.

Table A-20
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)
Detention by Region and County
January 1, 1983 through December 31, 1983

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	5,117	4,210	20	895	120	94	69	94	396	105	15	2	......
Total New York City	1,678	1,235	3	442	55	37	22	37	197	79	13	2	......
New York	229	172	1	57	11	9	7	7	16	6	1	......	......
Kings	745	497	1	248	33	17	11	21	111	47	7	1	......
Queens	278	245	......	33	1	3	2	4	19	4	......	......	......
Bronx	375	289	1	85	10	7	2	4	41	18	3	......	......
Richmond	51	32	......	19	......	1	......	1	10	4	2	1	......
Total Upstate	3,439	2,975	17	453	65	57	47	57	199	26	2	......	......
Albany	174	129	......	45	6	3	6	15	13	2	......	......	......
Allegany	5	4	......	1	......	1	......	......	......	......	......	......	......
Broome	78	71	......	7	......	1	1	1	4	......	......	......	......
Cattaraugus	10	10	......	......	......	......	......	......	......	......	......	......	......
Cayuga	17	16	......	1	......	......	......	......	1	......	......	......	......
Chautauqua	55	55	......	......	......	......	......	......	......	......	......	......	......
Chemung	53	40	......	13	1	......	1	2	9	......	......	......	......
Chenango	12	12	......	......	......	......	......	......	......	......	......	......	......
Clinton	11	11	......	......	......	......	......	......	......	......	......	......	......
Columbia	32	26	......	6	......	......	......	4	2	......	......	......	......
Cortland	31	23	2	7	3	1	1	......	2	......	......	......	......
Delaware	18	18	......	......	......	......	......	......	......	......	......	......	......
Dutchess	111	106	......	5	1	......	1	......	3	......	......	......	......
Erie	360	288	......	72	4	4	2	1	44	15	2	......	......
Essex	17	15	......	2	......	......	......	......	2	......	......	......	......
Franklin	11	11	......	......	......	......	......	......	......	......	......	......	......
Fulton	25	21	......	4	......	2	......	......	2	......	......	......	......
Genesee	20	19	1	......	......	......	......	......	......	......	......	......	......
Greene	23	23	......	......	......	......	......	......	......	......	......	......	......
Hamilton	1	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	19	19	......	......	......	......	......	......	......	......	......	......	......
Jefferson	46	46	......	......	......	......	......	......	......	......	......	......	......
Lewis	2	2	......	......	......	......	......	......	......	......	......	......	......
Livingston	16	16	......	......	......	......	......	......	......	......	......	......	......
Madison	19	16	......	3	1	1	......	......	1	......	......	......	......
Monroe	177	109	......	68	3	9	3	6	43	4	......	......	......
Montgomery	24	22	1	1	1	......	......	......	......	......	......	......	......
Nassau	223	217	......	6	1	......	1	4	......	......	......	......	......
Niagara	66	57	......	9	3	2	4	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	244	193	1	51	5	1	4	3	35	3	......	......	......
Ontario	30	22	5	7	2	1	1	......	3	......	......	......	......
Orange	87	86	......	1	......	1	......	......	......	......	......	......	......
Orleans	3	3	......	......	......	......	......	......	......	......	......	......	......
Oswego	21	18	......	3	2	......	1	......	......	......	......	......	......
Otsego	7	6	......	1	......	......	1	......	......	......	......	......	......
Putnam	21	19	......	2	......	......	......	2	......	......	......	......	......
Rensselaer	98	81	1	16	1	6	3	......	6	......	......	......	......
Rockland	31	26	......	5	2	......	2	......	1	......	......	......	......
St. Lawrence	14	14	......	......	......	......	......	......	......	......	......	......	......
Saratoga	63	45	2	16	5	5	2	2	2	......	......	......	......
Schenectady	64	59	......	5	1	......	......	3	1	......	......	......	......
Schoharie	4	4	......	......	......	......	......	......	......	......	......	......	......
Schuyler	6	3	3	......	......	......	......	......	......	......	......	......	......
Seneca	12	10	......	2	2	......	......	......	......	......	......	......	......
Steuben	31	25	1	5	......	4	1	......	......	......	......	......	......
Suffolk	628	573	......	55	10	7	10	12	15	1	......	......	......
Sullivan	25	25	......	......	......	......	......	......	......	......	......	......	......
Tioga	11	8	......	3	1	2	......	......	......	......	......	......	......
Tompkins	15	10	......	5	1	......	2	1	1	......	......	......	......
Ulster	46	45	......	1	......	......	......	......	1	......	......	......	......
Warren	24	20	......	4	2	2	......	......	......	......	......	......	......
Washington	51	47	......	4	4	......	......	......	......	......	......	......	......
Wayne	29	25	......	4	1	2	......	1	......	......	......	......	......
Westchester	204	192	......	12	2	1	......	......	8	1	......	......	......
Wyoming	9	8	......	1	......	1	......	......	......	......	......	......	......
Yates	5	5	......	......	......	......	......	......	......	......	......	......	......

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*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 8 such proceedings statewide.

Table A-21
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)
Detention by Region and County
January 1, 1983 through December 31, 1983

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	4,887	3,949	27	920	114	84	84	122	389	100	26	1	......
Total New York City	1,733	1,272	2	459	52	32	34	71	195	60	15	......	......
New York	294	221	1	72	12	8	8	12	29	3	......	......	......
Kings	683	460	......	223	27	15	17	27	93	37	7	......	......
Queens	293	248	1	44	2	......	4	11	21	6	......	......	......
Bronx	415	313	......	102	10	9	5	19	42	11	6	......	......
Richmond	48	30	......	18	1	......	......	2	10	3	2	......	......
Total Upstate	3,154	2,677	25	461	62	52	50	51	194	40	11	1	......
Albany	140	101	......	39	1	2	8	13	13	1	1	......	......
Allegany	7	5	1	1	......	......	......	......	1	......	......	......	......
Broome	117	104	2	13	1	4	1	1	4	2	......	......	......
Cattaraugus	20	20	......	......	......	......	......	......	......	......	......	......	......
Cayuga	15	15	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	41	41	......	......	......	......	......	......	......	......	......	......	......
Chemung	37	30	......	7	......	......	......	1	6	......	......	......	......
Chenango	17	17	......	......	......	......	......	......	......	......	......	......	......
Clinton	8	8	......	......	......	......	......	......	......	......	......	......	......
Columbia	15	14	......	1	......	......	......	......	1	......	......	......	......
Cortland	11	9	......	2	1	......	......	......	1	......	......	......	......
Delaware	8	8	......	......	......	......	......	......	......	......	......	......	......
Dutchess	71	65	......	6	1	......	2	1	2	......	......	......	......
Erie	390	323	......	67	6	5	8	6	24	14	4	......	......
Essex	4	3	1	......	......	......	......	......	......	......	......	......	......
Franklin	6	5	......	1	......	1	......	......	......	......	......	......	......
Fulton	25	19	5	2	1	1	......	......	......	......	......	......	......
Genesee	17	17	......	......	......	......	......	......	......	......	......	......	......
Greene	12	12	......	......	......	......	......	......	......	......	......	......	......
Hamilton	1	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	23	22	1	......	......	......	......	......	......	......	......	......	......
Jefferson	43	43	......	......	......	......	......	......	......	......	......	......	......
Lewis	1	......	1	......	......	......	......	......	......	......	......	......	......
Livingston	13	13	......	......	......	......	......	......	......	......	......	......	......
Madison	21	19	......	2	1	......	......	......	1	......	......	......	......
Monroe	204	112	......	92	6	7	4	5	65	5	......	......	......
Montgomery	20	16	2	2	......	1	1	......	......	......	......	......	......
Nassau	240	234	......	6	1	1	......	......	4	......	......	......	......
Niagara	52	46	......	6	1	......	3	1	......	......	......	1	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	229	179	......	50	6	1	2	5	31	4	1	......	......
Ontario	25	21	1	4	1	......	......	1	......	2	......	......	......
Orange	82	82	......	......	......	......	......	......	......	......	......	......	......
Orleans	3	2	......	1	......	......	......	......	......	1	......	......	......
Oswego	20	20	......	......	......	......	......	......	......	......	......	......	......
Otsego	10	10	......	......	......	......	......	......	......	......	......	......	......
Putnam	14	9	......	5	......	......	......	......	2	1	2	......	......
Rensselaer	77	58	1	19	1	6	2	3	7	......	......	......	......
Rockland	22	15	......	7	4	1	......	......	2	......	......	......	......
St. Lawrence	8	7	1	......	......	......	......	......	......	......	......	......	......
Saratoga	47	34	1	13	2	4	5	1	......	......	1	......	......
Schenectady	40	37	2	3	2	1	......	......	......	......	......	......	......
Schoharie	2	1	......	1	......	......	1	......	......	......	......	......	......
Schuyler	6	4	2	......	......	......	......	......	......	......	......	......	......
Seneca	11	11	......	......	......	......	......	......	......	......	......	......	......
Steuben	26	21	......	5	2	3	......	......	......	......	......	......	......
Suffolk	532	483	1	48	15	7	8	5	10	2	1	......	......
Sullivan	27	26	......	1	......	1	......	......	......	......	......	......	......
Tioga	9	7	......	2	1	......	1	......	......	......	......	......	......
Tompkins	17	9	1	7	1	......	2	......	3	1	......	......	......
Ulster	48	48	......	......	......	......	......	......	......	......	......	......	......
Warren	17	13	......	4	1	1	1	......	1	......	......	......	......
Washington	25	25	......	......	......	......	......	......	......	......	......	......	......
Wayne	42	32	1	10	......	4	1	2	3	......	......	......	......
Westchester	220	187	1	32	6	1	......	5	12	7	1	......	......
Wyoming	13	12	......	1	......	......	......	1	......	......	......	......	......
Yates	3	2	......	1	......	......	......	......	1	......	......	......	......

*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 9 such proceedings statewide.

Table A-22 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	5,117	25	......	57	400	195	793	496	934	12	62	......
Total New York City	1,678	9	......	32	305	81	201	293	471	......	2	......
New York	229	5	......	3	46	18	9	36	82	......	2	......
Kings	745	2	......	18	137	28	129	107	147	......	......	......
Queens	278	2	......	2	67	22	32	34	104	......	......	......
Bronx	375	......	......	4	41	12	21	113	130	......	......	......
Richmond	51	......	......	5	14	1	10	3	8	......	......	......
Total Upstate	3,439	16	......	25	95	114	592	203	463	12	60	......
Albany	174	......	......	1	3	1	58	21	8	......	15	......
Allegany	5	......	......	......	......	......	......	......	1	......	......	......
Broome	78	......	......	......	......	......	......	12	......	......	1	......
Cattaraugus	10	......	......	......	......	1	3	......	1	......	......	......
Cayuga	17	......	......	......	......	......	1	2	2	1	......	......
Chautauqua	55	1	......	......	3	6	12	8	......	......	......	......
Chemung	53	......	......	......	......	......	2	......	3	......	4	......
Chenango	12	......	......	......	......	......	3	......	......	1	......	......
Clinton	11	......	......	......	......	......	......	......	2	......	......	......
Columbia	32	......	......	......	......	......	5	......	2	4	......	......
Cortland	31	......	......	......	......	......	5	......	......	......	......	......
Delaware	18	4	......	......	......	4	......	......	1	......	......	......
Dutchess	111	......	......	......	2	......	16	2	18	1	12	......
Erie	360	1	......	......	24	30	83	15	15	......	......	......
Essex	17	......	......	......	......	......	2	1	2	......	1	......
Franklin	11	......	......	......	......	......	1	3	1	......	......	......
Fulton	25	......	......	......	1	......	5	1	5	......	......	......
Genesee	20	......	......	......	......	......	2	......	1	......	......	......
Greene	23	......	......	......	......	1	6	......	3	......	......	......
Hamilton	1	......	......	......	......	......	1	......	......	......	......	......
Herkimer	19	......	......	......	......	1	......	1	4	......	......	......
Jefferson	46	......	......	......	......	......	......	3	4	......	......	......
Lewis	2	......	......	......	......	......	......	......	......	......	......	......
Livingston	16	......	......	......	......	......	2	3	1	......	......	......
Madison	19	......	......	......	......	......	3	1	2	......	1	......
Monroe	177	......	......	......	2	10	38	13	27	......	......	......
Montgomery	24	......	......	......	......	1	6	4	......	......	2	......
Nassau	223	......	......	1	2	4	11	12	22	1	4	......
Niagara	66	......	......	......	......	......	8	2	3	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	244	1	......	......	4	20	73	30	9	1	1	......
Ontario	30	......	......	......	......	......	1	1	3	......	......	......
Orange	87	......	......	1	1	4	9	16	4	......	1	......
Orleans	3	......	......	......	......	1	......	1	1	......	......	......
Oswego	21	......	......	......	......	......	1	......	1	......	......	......
Otsego	7	......	......	......	......	......	......	......	1	......	......	......
Putnam	21	......	......	......	1	......	2	2	2	......	......	......
Rensselaer	98	1	......	1	2	2	27	4	11	......	1	......
Rockland	31	......	......	......	2	1	4	1	9	......	......	......
St. Lawrence	14	......	......	......	......	......	......	......	1	......	1	......
Saratoga	63	......	......	......	2	1	20	3	3	1	......	......
Schenectady	64	......	......	1	1	1	4	1	5	......	3	......
Schoharie	4	......	......	......	......	......	1	......	1	......	......	......
Schuyler	6	......	......	......	......	......	......	......	1	......	......	......
Seneca	12	......	......	......	3	......	2	......	......	......	......	......
Steuben	31	......	......	1	......	......	4	4	5	......	......	......
Suffolk	628	5	......	11	15	18	124	11	199	1	1	......
Sullivan	25	......	......	......	......	1	......	2	5	......	3	......
Tioga	11	......	......	1	......	......	......	......	......	......	......	......
Tompkins	15	......	......	......	......	......	6	2	......	......	......	......
Ulster	46	......	......	1	......	1	10	2	7	......	......	......
Warren	24	1	......	......	2	......	4	1	1	......	2	......
Washington	51	2	......	......	......	......	2	......	4	......	......	......
Wayne	29	......	......	......	......	......	7	4	1	1	1	......
Westchester	204	......	......	5	25	4	16	14	60	......	6	......
Wyoming	9	......	......	1	......	1	2	......	1	......	......	......
Yates	5	......	......	......	......	......	......	......	......	......	......	......

Table A-22 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	1	24	128	1,256	9	638	49	21	......	......	17
Total New York City	......	3	3	88	1	179	6	1	......	......	3
New York	......	2	2	12	......	12	......	......	......	......	......
Kings	......	1	1	58	1	110	4	......	......	......	2
Queens	......	......	......	4	......	11	......	......	......	......	......
Bronx	......	......	......	11	......	41	1	1	......	......	......
Richmond	......	......	......	3	......	5	1	......	......	......	1
Total Upstate	1	21	125	1,168	8	459	43	20	......	......	14
Albany	......	3	5	41	......	14	2	2	......	......	......
Allegany	......	......	......	3	......	......	......	1	......	......	......
Broome	......	......	2	30	......	32	1	......	......	......	......
Cattaraugus	......	......	......	3	......	1	......	1	......	......	......
Cayuga	......	3	......	2	......	2	4	......	......	......	......
Chautauqua	......	......	......	19	......	6	......	......	......	......	......
Chemung	......	......	2	28	......	12	......	2	......	......	......
Chenango	......	......	......	4	2	2	......	......	......	......	......
Clinton	......	......	......	8	......	1	......	......	......	......	......
Columbia	......	......	1	13	......	6	1	......	......	......	......
Cortland	......	......	......	19	......	1	2	4	......	......	......
Delaware	......	......	2	6	......	1	......	......	......	......	......
Dutchess	......	3	1	31	......	25	......	......	......	......	......
Erie	......	......	9	119	......	50	14	......	......	......	......
Essex	......	......	5	3	......	1	2	......	......	......	......
Franklin	......	......	......	2	......	3	1	......	......	......	......
Fulton	......	......	......	5	......	7	......	1	......	......	......
Genesee	......	......	......	13	......	4	......	......	......	......	......
Greene	......	......	2	6	......	5	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	1	7	......	3	2	......	......	......	......
Jefferson	......	......	......	35	......	3	1	......	......	......	......
Lewis	......	......	......	2	......	......	......	......	......	......	......
Livingston	......	......	......	8	......	2	......	......	......	......	......
Madison	......	......	5	3	1	3	......	......	......	......	......
Monroe	......	1	7	36	......	42	......	......	......	......	1
Montgomery	......	......	1	7	......	3	......	......	......	......	......
Nessau	......	1	19	129	......	9	......	......	......	......	8
Niagara	......	1	5	27	......	14	2	1	......	......	3
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	1	......	11	49	1	41	1	1	......	......	......
Ontario	......	1	......	18	......	5	......	1	......	......	......
Orange	......	......	1	29	......	20	......	1	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	1	2	15	......	......	......	1	......	......	......
Otsego	......	......	1	3	......	2	......	......	......	......	......
Putnam	......	1	......	10	......	3	......	......	......	......	......
Rensselaer	......	......	6	26	......	16	1	......	......	......	......
Rockland	......	......	......	10	......	4	......	......	......	......	......
St. Lawrence	......	......	1	5	......	6	......	......	......	......	......
Saratoga	......	......	......	17	1	13	1	1	......	......	......
Schenectady	......	2	......	33	1	10	1	1	......	......	......
Schoharie	......	......	......	2	......	......	......	......	......	......	......
Schuyler	......	......	......	4	......	......	1	......	......	......	......
Seneca	......	......	4	3	......	......	......	......	......	......	......
Steuben	......	......	......	6	......	10	1	......	......	......	......
Suffolk	......	2	13	200	......	23	3	1	......	......	1
Sullivan	......	......	1	10	......	3	......	......	......	......	......
Tioga	......	......	......	5	1	3	1	......	......	......	......
Tompkins	......	......	......	3	......	4	......	......	......	......	......
Ulster	......	1	......	18	1	4	......	1	......	......	......
Warren	......	......	1	7	......	5	......	......	......	......	......
Washington	......	......	6	35	......	2	......	......	......	......	......
Wayne	......	......	3	4	......	7	1	......	......	......	......
Westchester	......	1	5	44	......	23	......	......	......	......	1
Wyoming	......	......	......	1	......	3	......	......	......	......	......
Yates	......	......	3	2	......	......	......	......	......	......	......

Table A-23 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	4,887	23	......	48	468	206	724	640	880	12	19	1
Total New York City	1,733	5	......	26	359	105	174	387	416	2	1	1
New York	294	3	......	3	61	34	8	70	80	1	......	1
Kings	683	2	......	11	174	28	104	117	119	......	......	......
Queens	293	......	......	2	60	17	35	36	105	1	1	......
Bronx	415	......	......	6	58	26	16	160	99	......	......	......
Richmond	48	......	......	4	6	......	11	4	13	......	......	......
Total Upstate	3,154	18	......	22	109	101	550	253	464	10	18	......
Albany	140	1	......	1	1	......	47	24	8	......	6	......
Allegany	7	......	......	......	......	1	......	......	......	......	......	......
Broome	117	3	......	......	4	......	3	17	5	......	......	......
Cattaraugus	20	1	......	......	1	1	3	3	2	......	......	......
Cayuga	15	......	......	......	......	......	......	1	3	......	......	......
Chautauqua	41	......	......	1	1	3	3	......	3	1	......	......
Chemung	37	......	......	......	......	......	2	......	4	......	......	......
Chenango	17	......	......	......	......	......	7	......	......	......	......	......
Clinton	8	......	......	......	......	......	1	......	2	......	......	......
Columbia	15	......	......	......	......	1	3	......	......	......	......	......
Cortland	11	......	......	......	......	......	1	......	1	......	......	......
Delaware	8	......	......	......	......	1	......	......	3	......	......	......
Dutchess	71	......	......	......	5	......	13	......	12	1	1	......
Erie	390	4	......	2	34	34	83	28	21	......	......	......
Essex	4	......	......	......	......	......	1	......	......	......	......	......
Franklin	6	......	......	......	......	......	1	......	1	......	......	......
Fulton	25	......	......	......	[illegible]	......	10	......	3	......	......	......
Genesee	17	......	......	......	1	......	2	1	1	......	......	......
Greene	12	......	......	......	......	......	1	......	1	......	......	......
Hamilton	1	......	......	......	......	......	......	......	1	......	......	......
Herkimer	23	......	......	......	1	2	2	1	7	......	......	......
Jefferson	43	......	......	......	......	1	......	2	9	......	......	......
Lewis	1	......	......	......	......	......	......	......	......	......	......	......
Livingston	13	......	......	......	......	......	3	......	3	......	......	......
Madison	21	......	......	......	......	1	4	1	1	......	......	......
Monroe	204	......	......	2	......	3	29	27	32	1	......	......
Montgomery	20	......	......	1	1	......	7	4	2	1	......	......
Nassau	240	......	......	......	3	5	4	13	35	1	......	......
Niagara	52	......	......	......	......	......	3	3	8	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	229	......	......	......	2	12	64	59	15	......	2	......
Ontario	25	1	......	......	......	......	4	1	......	......	......	......
Orange	82	......	......	1	2	......	12	14	8	......	......	......
Orleans	3	......	......	......	......	......	......	......	2	......	......	......
Oswego	20	......	......	......	......	......	1	......	2	......	......	......
Otsego	10	2	......	......	......	......	......	......	......	......	......	......
Putnam	14	1	......	......	......	......	5	......	1	......	......	......
Rensselaer	77	1	......	......	......	3	25	2	9	......	2	......
Rockland	22	......	......	......	......	......	1	1	3	......	......	......
St. Lawrence	8	1	......	......	......	1	1	......	......	......	......	......
Saratoga	47	......	......	2	1	......	12	2	4	1	1	......
Schenectady	40	......	......	2	2	1	3	......	4	......	1	......
Schoharie	2	......	......	......	......	......	......	......	......	......	......	......
Schuyler	6	......	......	......	1	......	3	......	......	2	......	......
Seneca	11	......	......	......	2	......	2	......	2	......	......	......
Steuben	26	......	......	......	......	......	9	2	3	......	......	......
Suffolk	532	2	......	5	16	22	117	12	168	2	......	......
Sullivan	27	......	......	1	......	1	2	3	4	......	......	......
Tioga	9	......	......	......	......	......	1	......	......	......	......	......
Tompkins	17	......	......	......	1	......	5	......	1	......	......	......
Ulster	48	......	......	......	......	......	11	2	16	......	......	......
Warren	17	......	......	......	1	......	2	......	2	......	......	......
Washington	25	......	......	......	......	......	3	......	......	......	......	......
Wayne	42	......	......	......	1	......	11	7	3	......	......	......
Westchester	220	1	......	4	27	8	21	21	48	......	5	......
Wyoming	13	......	......	......	......	......	2	2	1	......	......	......
Yates	3	......	......	......	......	......	......	......	......	......	......	......

Table A-23 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	15	106	1,064	9	613	29	11	......	......	19
Total New York City	......	1	6	97	1	145	6	......	......	......	1
New York	......	......	3	11	......	19	......	......	......	......	......
Kings	......	1	1	49	1	74	1	......	......	......	1
Queens	......	......	......	20	......	15	1	......	......	......	......
Bronx	......	......	......	15	......	35	......	......	......	......	......
Richmond	......	......	2	2	......	2	4	......	......	......	......
Total Upstate	......	14	100	967	8	468	23	11	......	......	18
Albany	......	2	1	27	2	15	3	2	......	......	......
Allegany	......	......	......	2	......	4	......	......	......	......	......
Broome	......	......	2	41	......	40	1	1	......	......	......
Cattaraugus	......	......	......	3	......	6	......	......	......	......	......
Cayuga	......	2	1	3	1	2	2	......	......	......	......
Chautauqua	......	......	......	16	......	13	......	......	......	......	......
Chemung	......	......	4	16	......	11	......	......	......	......	......
Chenango	......	......	......	4	1	5	......	......	......	......	......
Clinton	......	......	1	4	......	......	......	......	......	......	......
Columbia	......	2	1	6	......	2	......	......	......	......	......
Cortland	......	......	......	5	......	1	......	3	......	......	......
Delaware	......	......	......	3	......	1	......	......	......	......	......
Dutchess	......	......	......	30	......	9	......	......	......	......	......
Erie	......	......	3	128	......	43	8	......	......	......	2
Essex	......	......	......	2	......	1	......	......	......	......	......
Franklin	......	......	......	2	......	2	......	......	......	......	......
Fulton	......	......	......	6	......	5	......	......	......	......	......
Genesee	......	......	......	2	1	9	......	......	......	......	......
Greene	......	1	2	6	......	1	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	1	4	......	5	......	......	......	......	......
Jefferson	......	......	3	25	......	3	......	......	......	......	......
Lewis	......	......	......	1	......	......	......	......	......	......	......
Livingston	......	......	......	4	......	3	......	......	......	......	......
Madison	......	......	6	2	......	6	......	......	......	......	......
Monroe	......	......	22	40	1	47	......	......	......	......	......
Montgomery	......	......	......	......	......	4	......	......	......	......	......
Nassau	......	......	9	147	......	7	1	1	......	......	14
Niagara	......	1	......	21	......	15	1	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	12	35	......	27	......	1	......	......	......
Ontario	......	......	1	10	......	8	......	......	......	......	......
Orange	......	......	4	23	......	17	......	......	......	......	1
Orleans	......	......	......	......	......	1	......	......	......	......	......
Oswego	......	......	2	13	......	1	......	......	......	......	1
Otsego	......	......	2	1	......	5	......	......	......	......	......
Putnam	......	......	......	3	......	4	......	......	......	......	......
Rensselaer	......	......	......	18	......	15	2	......	......	......	......
Rockland	......	2	......	12	......	2	1	......	......	......	......
St. Lawrence	......	......	......	2	......	3	......	......	......	......	......
Saratoga	......	......	......	13	......	11	......	......	......	......	......
Schenectady	......	......	......	22	......	4	1	......	......	......	......
Schoharie	......	......	......	......	......	1	1	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	3	1	......	......	1	......	......	......
Steuben	......	......	......	5	......	7	......	......	......	......	......
Suffolk	......	3	7	152	......	24	1	1	......	......	......
Sullivan	......	......	......	7	......	9	......	......	......	......	......
Tioga	......	......	......	2	......	6	......	......	......	......	......
Tompkins	......	......	2	3	......	5	......	......	......	......	......
Ulster	......	1	1	14	......	3	......	......	......	......	......
Warren	......	......	1	3	......	8	......	......	......	......	......
Washington	......	......	6	16	......	......	......	......	......	......	......
Wayne	......	......	3	7	......	10	......	......	......	......	......
Westchester	......	......	3	50	1	31	......	......	......	......	......
Wyoming	......	......	......	2	......	6	......	......	......	......	......
Yates	......	......	......	1	......	......	1	1	......	......	......

Table A-24 (partial)
FAMILY COURT
Original Petitions Initially Disposed
(Other than Designated Felony)
Reasons for Juvenile Delinquency Proceedings by Sex and Region
January 1, 1983 through December 31, 1983

	New York City		
Delinquency Petition Allegations	**Boys**	**Girls**	**Both**
Homicide (PL ART 125)	7 (0.064%)	1 (0.097%)	8 (0.066%)
Kidnapping (PL ART 135)	22 (0.200%)	4 (0.388%)	26 (0.216%)
Rape (PL ART 130)	55 (0.499%)	.... (0.000%)	55 (0.457%)
Other Sex Offenses (PL ART 130)	111 (1.008%)	4 (0.388%)	115 (0.955%)
Robbery (PL ART 160)	1,339 (12.157%)	93 (9.012%)	1,432 (11.888%)
Assault or Related Off. (PL ART 120)	884 (8.026%)	165 (15.988%)	1, 049 (8.708%)
Crim. Sale Control Subst. (PL ART 220)	85 (0.772%)	6 (0.581%)	91 (0.755%)
Crim. Poss. Control Subst. (PL ART 220)	133 (1.208%)	12 (1.163%)	145 (1.204%)
Other Drug Offense (PL ART 220)	18 (0.163%)	1 (0.097%)	19 (0.158%)
Crim. Poss. of Weapon (PL ART 265)	640 (5.811%)	85 (8.236%)	725 (6.019%)
Burglary or Related Off. (PL ART 140)	1,027 (9.324%)	49 (4.748%)	1,076 (8.932%)
Criminal Trespass (PL ART 140)	656 (5.956%)	28 (2.713%)	684 (5.678%)
Arson (PL ART 150)	23 (0.209%)	6 (0.581%)	29 (0.241%)
Grand Larceny - Auto (PL ART 155)	251 (2.279%)	15 (1.453%)	266 (2.208%)
Grand Larceny (PL ART 155)	1,490 (13.528%)	156 (15.116%)	1,646 (13.664%)
Petit Larceny (PL ART 155)	835 (7.581%)	93 (9.012%)	928 (7.704%)
Crim. Poss. of Stolen Prop. (PL ART 165)	1,854 (16.833%)	195 (18.895%)	2,049 (17.010%)
Other Theft (PL ART 165)	259 (2.352%)	20 (1.938%)	279 (2.316%)
Criminal Mischief (PL ART 145)	906 (8.226%)	49 (4.748%)	955 (7.928%)
Gambling (PL ART 225)	.... (0.000%)	.... (0.000%)	.... (0.000%)
Prostitution (PL ART 230)	2 (0.018%)	2 (0.194%)	4 (0.033%)
Other Crimes	417 (3.786%)	48 (4.651%)	465 (3.860%)
Total of Other Than Designated Felony Allegations	11,014 (100.000%)	1,032 (100.000%)	12,046 (100.000%)

Table A-24 (continued)
FAMILY COURT
Original Petitions Initially Disposed
(Other than Designated Felony)
Reasons for Juvenile Delinquency Proceedings by Sex and Region

January 1, 1983 through December 31, 1983

Upstate Counties			
Delinquency Petition Allegations	**Boys**	**Girls**	**Both**
Homicide (PL ART 125)	6 (0.064%)	.... (0.000%)	6 (0.055%)
Kidnapping (PL ART 135)	8 (0.085%)	1 (0.066%)	9 (0.082%)
Rape (PL ART 130)	20 (0.213%)	.... (0.000%)	20 (0.183%)
Other Sex Offenses (PL ART 130)	177 (1.881%)	4 (0.266%)	181 (1.659%)
Robbery (PL ART 160)	250 (2.657%)	28 (1.862%)	278 (2.547%)
Assault or Related Off. (PL ART 120)	755 (8.024%)	260 (17.287%)	1,015 (9.301%)
Crim. Sale Control Subst. (PL ART 220)	22 (0.234%)	2 (0.133%)	24 (0.220%)
Crim. Poss. Control Subst. (PL ART 220)	38 (0.404%)	7 (0.465%)	45 (0.412%)
Other Drug Offense (PL ART 220)	9 (0.096%)	3 (0.199%)	12 (0.110%)
Crim. Poss. of Weapon (PL ART 265)	168 (1.786%)	17 (1.130%)	185 (1.695%)
Burglary or Related Off. (PL ART 140)	2,312 (24.572%)	136 (9.043%)	2,448 (22.432%)
Criminal Trespass (PL ART 140)	455 (4.836%)	58 (3.856%)	513 (4.701%)
Arson (PL ART 150)	108 (1.148%)	18 (1.197%)	126 (1.155%)
Grand Larceny - Auto (PL ART 155)	84 (0.893%)	5 (0.332%)	89 (0.816%)
Grand Larceny (PL ART 155)	687 (7.302%)	83 (5.519%)	770 (7.056%)
Petit Larceny (PL ART 155)	1,641 (17.441%)	457 (30.386%)	2,098 (19.225%)
Crim. Poss. of Stolen Prop. (PL ART 165)	574 (6.101%)	88 (5.851%)	662 (6.066%)
Other Theft (PL ART 165)	195 (2.072%)	27 (1.795%)	222 (2.034%)
Criminal Mischief (PL ART 145)	1,103 (11.723%)	115 (7.646%)	1,218 (11.161%)
Gambling (PL ART 225)	.... (0.000%)	2 (0.133%)	2 (0.018%)
Prostitution (PL ART 230)	5 (0.053%)	20 (1.330%)	25 (0.229%)
Other Crimes	792 (8.417%)	173 (11.503%)	965 (8.843%)
Total of Other Than Designated Felony Allegations	9,409 (100.000%)	1,504 (100.000%)	10,913 (100.000%)

Table A-24 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
(Other than Designated Felony)
Reasons for Juvenile Delinquency Proceedings by Sex and Region
January 1, 1983 through December 31, 1983

Statewide

Delinquency Petition Allegations	**Boys**	**Girls**	**Both**
Homicide (PL ART 125)	13 (0.064%)	1 (0.039%)	14 (0.061%)
Kidnapping (PL ART 135)	30 (0.147)	5 (0.197%)	35 (0.152%)
Rape (PL ART 130)	75 (0.367%)	.... (0.000%)	75 (0.327%)
Other Sex Offenses (PL ART 130)	288 (1.410%)	8 (0.315%)	296 (1.289%)
Robbery (PL ART 160)	1,589 (7.780%)	121 (4.771%)	1,710 (7.448%)
Assault or Related Off. (PL ART 120)	1,639 (8.025%)	425 (16.759%)	2,064 (8.990%)
Crim. Sale Control Subst. (PL ART 220)	107 (0.524%)	8 (0.315%)	113 (0.501%)
Crim. Poss. Control Subst. (PL ART 220)	171 (0.837%)	19 (0.749%)	190 (0.828%)
Other Drug Offense (PL ART 220)	27 (0.132%)	4 (0.158%)	31 (0.135%)
Crim. Poss. of Weapon (PL ART 265)	808 (3.956%)	102 (4.022%)	910 (3.964%)
Burglary or Related Off. (PL ART 140)	3,339 (16.349%)	185 (7.295%)	3,524 (15.349%)
Criminal Trespass (PL ART 140)	1,111 (5.440%)	86 (3.391%)	1,197 (5.214%)
Arson (PL ART 150)	131 (0.641%)	24 (0.946%)	155 (0.675%)
Grand Larceny - Auto (PL ART 155)	335 (1.640%)	20 (0.789%)	355 (1.546%)
Grand Larceny (PL ART 155)	2,177 (10.660%)	239 (9.424%)	2,416 (10.523%)
Petit Larceny (PL ART 155)	2,476 (12.124%)	550 (21.688%)	3,026 (13.180%)
Crim. Poss. of Stolen Prop. (PL ART 165)	2,428 (11.889%)	283 (11.159%)	2,711 (11.808%)
Other Theft (PL ART 165)	454 (2.223%)	47 (1.853%)	501 (2.182%)
Criminal Mischief (PL ART 145)	2,009 (9.837%)	164 (6.467%)	2,173 (9.465%)
Gambling (PL ART 225)	.... (0.000%)	2 (0.079%)	2 (0.009%)
Prostitution (PL ART 230)	7 (0.034%)	22 (0.868%)	29 (0.126%)
Other Crimes	1,209 (5.920%)	221 (8.715%)	1,430 (6.228%)
Total of Other Than Designated Felony Allegations	20,423 (100.000%)	2,536 (100.000%)	22,959 (100.000%)

Table A-25 (partial)
FAMILY COURT
Original Petitions Initially Disposed
(Other Than Designated Felony)
Reasons for Juvenile Delinquency Proceedings by Sex and Region
January 1, 1983 through December 31, 1983

New York City

Designated Felony Allegations	Boys	Girls	Both
Murder 1st - Class A (PL SEC. 125.27)	(0.000%)	(0.000%)	(0.000%)
Murder 2nd - Class A (PL SEC. 125.25)	(0.000%)	(0.000%)	(0.000%)
Kidnapping 1st - Class A (PL SEC. 135.25)	(0.000%)	(0.000%)	(0.000%)
Arson 1st - Class A (PL SEC. 150.20)	4 (1.569%)	(0.000%)	4 (1.476%)
Manslaughter 1st - Class B (PL SEC. 125.20)	2 (0.784%)	(0.000%)	2 (0.738%)
Rape 1st - Class B (PL SEC. 130.35)	24 (9.412%)	(0.000%)	24 (8.856%)
Sodomy 1st - Class B (PL SEC. 130.50)	29 (11.373%)	(0.000%)	9 (10.701%)
Kidnapping 2nd - Class B (PL SEC. 135.20)	(0.000%)	1 (6.250%)	1 (0.369%)
Arson 2nd - Class B (PL SEC. 150.15)	1 (0.392%)	(0.000%)	1 (0.369%)
Robbery 1st - Class B (PL SEC. 160.15)	177 (69.412%)	10 (62.500%)	187 (69.004%)
Assault 1st - Class C (PL SEC. 120.10)	18 (7.059%)	5 (31.250%)	23 (8.487%)
Attempt - Murder 1st	(0.000%)	(0.000%)	(0.000%)
Attempt - Murder 2nd	(0.000%)	(0.000%)	(0.000%)
Attempt - Kidnapping 1st	(0.000%)	(0.000%)	(0.000%)
Total of Designated Felony Allegations	255 (100.000%)	16 (100.000%)	271 (100.000%)

Table A-25 (continued)
FAMILY COURT
Original Petitions Initially Disposed
(Other Than Designated Felony)
Reasons for Juvenile Delinquency Proceedings by Sex and Region
January 1, 1983 through December 31, 1983

Upstate Counties

Designated Felony Allegations	Boys	Girls	Both
Murder 1st - Class A (PL SEC. 125.27)	.... (0.000%)	.... (0.000%)	.... (0.000%)
Murder 2nd - Class A (PL SEC. 125.25)	.... (0.000%)	1 (14.286%)	1 (1.064%)
Kidnapping 1st - Class A (PL SEC. 135.25)	1 (1.149%)	.... (0.000%)	1 (1.064%)
Arson 1st - Class A (PL SEC. 150.20)	3 (3.448%)	.... (0.000%)	3 (3.191%)
Manslaughter 1st - Class B (PL SEC. 125.20)	.... (0.000%)	1 (14.286%)	1 (1.064%)
Rape 1st - Class B (PL SEC. 130.35)	14 (16.092%)	.... (0.000%)	14 (14.894%)
Sodomy 1st - Class B (PL SEC. 130.50)	36 (41.379%)	.... (0.000%)	36 (38.298%)
Kidnapping 2nd - Class B (PL SEC. 135.20)	.... (0.000%)	.... (0.000%)	.... (0.000%)
Arson 2nd - Class B (PL SEC. 150.15)	2 (2.299%)	2 (28.571%)	4 (4.255%)
Robbery 1st - Class B (PL SEC. 160.15)	27 (31.034%)	1 (14.286%)	28 (29.787%)
Assault 1st - Class C (PL SEC. 120.10)	4 (4.598%)	2 (28.571%)	6 (6.383%)
Attempt - Murder 1st	.... (0.000%)	.... (0.000%)	.... (0.000%)
Attempt - Murder 2nd	.... (0.000%)	.... (0.000%)	.... (0.000%)
Attempt - Kidnapping 1st	.... (0.000%)	.... (0.000%)	.... (0.000%)
Total of Designated Felony Allegations	87 (100.000%)	7 (100.000%)	94 (100.000%)

Table A-25 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
(Other Than Designated Felony)
Reasons for Juvenile Delinquency Proceedings by Sex and Region
January 1, 1983 through December 31, 1983

Statewide

Designated Felony Allegations	Boys	Girls	Both
Murder 1st - Class A (PL SEC. 125.27)	... (0.000%)	... (0.000%)	... (0.000%)
Murder 2nd - Class A (PL SEC. 125.25)	... (0.000%)	1 (4.348%)	1 (0.274%)
Kidnapping 1st - Class A (PL SEC. 135.25)	1 (0.292%)	... (0.000%)	1 (0.274%)
Arson 1st - Class A (PL SEC. 150.20)	7 (2.047%)	... (0.000%)	7 (1.918%)
Manslaughter 1st - Class B (PL SEC. 125.20)	2 (0.585%)	1 (4.348%)	3 (0.822%)
Rape 1st - Class B (PL SEC. 130.35)	38 (11.111%)	... (0.000%)	38 (10.411%)
Sodomy 1st - Class B (PL SEC. 130.50)	65 (19.006%)	... (0.000%)	65 (17.808%)
Kidnapping 2nd - Class B (PL SEC. 135.20)	... (0.000%)	1 (4.348%)	1 (0.274%)
Arson 2nd - Class B (PL SEC. 150.15)	3 (0.877%)	2 (8.696%)	5 (1.370%)
Robbery 1st - Class B (PL SEC. 160.15)	204 (59.649%)	11 (47.826%)	215 (58.904%)
Assault 1st - Class C (PL SEC. 120.10)	22 (6.433%)	7 (30.435%)	29 (7.945%)
Attempt - Murder 1st	... (0.000%)	... (0.000%)	... (0.000%)
Attempt - Murder 2nd	... (0.000%)	... (0.000%)	... (0.000%)
Attempt - Kidnapping 1st	... (0.000%)	... (0.000%)	... (0.000%)
Total of Designated Felony Allegations	342 (100.000%)	23 (100.000%)	365 (100.000%)

Table A-26
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings Including Designated Felonies (Boys Only)
Detention by Region and County
January 1, 1983 through December 31, 1983

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	12,879	10,758	169	2,065	559	282	205	254	619	121	22	3	......
Total New York City	5,069	3,961	63	1,081	358	120	102	97	299	84	18	3	......
New York	1,294	885	53	386	122	48	40	32	121	18	4	1	......
Kings	1,870	1,460	2	409	171	41	32	36	81	38	10	......	......
Queens	989	857	7	129	20	18	13	13	51	11	1	2	......
Bronx	809	672	......	137	35	11	16	16	43	13	3	......	......
Richmond	107	87	1	20	10	2	1	......	3	4	......	......	......
Total Upstate	7,810	6,797	106	984	201	162	103	157	320	37	4	......	......
Albany	441	366	......	75	9	13	7	24	20	1	1	......	......
Allegany	4	4	......	......	......	......	......	......	......	......	......	......	......
Broome	183	167	2	15	2	......	......	7	6	......	......	......	......
Cattaraugus	57	54	1	3	1	1	......	......	1	......	......	......	......
Cayuga	89	89	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	164	163	......	1	......	......	1	......	......	......	......	......	......
Chemung	110	77	2	33	1	1	4	6	20	1	......	......	......
Chenango	18	18	......	......	......	......	......	......	......	......	......	......	......
Clinton	13	11	......	2	......	......	......	2	......	......	......	......	......
Columbia	59	37	11	21	6	3	3	4	4	1	......	......	......
Cortland	45	35	4	9	4	1	......	3	1	......	......	......	......
Delaware	20	20	......	......	......	......	......	......	......	......	......	......	......
Dutchess	232	197	......	35	4	4	3	9	15	......	......	......	......
Erie	691	616	1	74	8	11	9	7	34	4	1	......	......
Essex	31	31	......	......	......	......	......	......	......	......	......	......	......
Franklin	46	45	......	1	......	......	......	1	......	......	......	......	......
Fulton	25	22	1	3	......	2	......	......	1	......	......	......	......
Genesee	54	51	1	3	1	......	2	......	......	......	......	......	......
Greene	14	14	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	38	37	......	1	......	......	......	......	......	1	......	......	......
Jefferson	87	80	2	7	1	......	4	2	......	......	......	......	......
Lewis	4	1	3	2	......	1	......	......	1	......	......	......	......
Livingston	24	24	......	......	......	......	......	......	......	......	......	......	......
Madison	60	54	......	6	2	......	3	......	......	1	......	......	......
Monroe	494	341	1	153	37	25	16	24	48	3	......	......	......
Montgomery	49	42	2	7	1	2	2	......	1	1	......	......	......
Nassau	743	623	6	117	39	28	11	12	26	1	......	......	......
Niagara	107	85	2	21	7	6	1	......	7	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	459	341	25	111	14	18	9	11	51	7	1	......	......
Ontario	25	21	2	4	......	......	1	2	1	......	......	......	......
Orange	163	152	1	11	3	7	1	......	......	......	......	......	......
Orleans	13	12	......	1	......	......	......	......	1	......	......	......	......
Oswego	40	40	......	......	......	......	......	......	......	......	......	......	......
Otsego	18	18	......	......	......	......	......	......	......	......	......	......	......
Putnam	40	38	......	2	......	......	......	......	2	......	......	......	......
Rensselaer	145	121	11	20	6	4	1	2	5	2	......	......	......
Rockland	94	87	......	7	1	......	2	1	2	1	......	......	......
St. Lawrence	56	56	......	......	......	......	......	......	......	......	......	......	......
Saratoga	211	200	1	11	2	5	2	2	......	......	......	......	......
Schenectady	97	83	3	14	3	4	1	3	3	......	......	......	......
Schoharie	18	15	2	3	......	1	1	......	1	......	......	......	......
Schuyler	10	8	......	2	......	2	......	......	......	......	......	......	......
Seneca	20	18	1	2	......	1	......	......	......	......	1	......	......
Steuben	55	45	......	10	......	......	......	2	8	......	......	......	......
Suffolk	1,502	1,374	1	127	31	12	13	25	42	4	......	......	......
Sullivan	66	65	......	1	......	1	......	......	......	......	......	......	......
Tioga	23	22	......	1	......	1	......	......	......	......	......	......	......
Tompkins	34	30	2	3	......	......	......	......	2	1	......	......	......
Ulster	151	145	3	5	2	......	......	......	3	......	......	......	......
Warren	29	26	1	2	1	......	......	......	1	......	......	......	......
Washington	61	53	......	8	4	3	......	1	......	......	......	......	......
Wayne	130	117	......	13	3	2	2	......	6	......	......	......	......
Westchester	401	363	14	33	7	2	3	6	7	8	......	......	......
Wyoming	39	35	......	4	1	1	1	1	......	......	......	......	......
Yates	8	8	......	......	......	......	......	......	......	......	......	......	......

*Figures in column 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 113 such proceedings statewide.

Table A-27
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings Including Designated Felonies (Girls Only)*
Detention by Region and County
January 1, 1983 through December 31, 1983

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	1,873	1,569	24	294	86	47	21	35	84	19	2	......	......
Total New York City	516	412	8	96	33	13	5	11	23	10	1	......	......
New York	154	103	6	45	16	7	3	2	12	4	1	......	......
Kings	186	157	1	28	10	3		5	7	3	......	......	......
Queens	118	108	1	9	3	1	1	......	2	2	......	......	......
Bronx	43	30	......	13	3	2	1	4	2	1	......	......	......
Richmond	15	14	......	1	1	......	......	......	......	......	......	......	......
Total Upstate	1,357	1,157	16	198	53	34	16	24	61	9	1	......	......
Albany	89	85	......	4	......	......	1	3	......	......	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......	......
Broome	41	34	1	7	3	......	......	2	2	......	......	......	......
Cattaraugus	13	13	......	......	......	......	......	......	......	......	......	......	......
Cayuga	17	17	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	24	24	......	......	......	......	......	......	......	......	......	......	......
Chemung	17	15	......	2	......	1	......	......	1	......	......	......	......
Chenango	1	1	......	......	......	......	......	......	......	......	......	......	......
Clinton	4	4	......	......	......	......	......	......	......	......	......	......	......
Columbia	3	1	1	2	......	1	......	......	1	......	......	......	......
Cortland	2	2	......	......	......	......	......	......	......	......	......	......	......
Delaware	1	1	......	......	......	......	......	......	......	......	......	......	......
Dutchess	42	39	......	3	......	1	1	......	1	......	......	......	......
Erie	144	130	......	14	2	3	......	2	6	1	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	6	6	......	......	......	......	......	......	......	......	......	......	......
Fulton	3	3	......	......	......	......	......	......	......	......	......	......	......
Genesee	13	13	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	1	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	7	......	......	......	......	......	......	......	......	......	......	......
Jefferson	15	15	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	5	4	......	1	1	......	......	......	......	......	......	......	......
Madison	5	3	2	2	......	......	......	2	......	......	......	......	......
Monroe	127	89	2	38	5	7	3	5	15	3	......	......	......
Montgomery	8	7	1	1	1	......	......	......	......	......	......	......	......
Nassau	170	122	3	48	24	9	2	2	10	1	......	......	......
Niagara	15	13	......	2	2	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	55	35	3	18	1	4	2	1	7	3	......	......	......
Ontario	2	2	......	......	......	......	......	......	......	......	......	......	......
Orange	15	15	......	......	......	......	......	......	......	......	......	......	......
Orleans	1	1	......	......	......	......	......	......	......	......	......	......	......
Oswego	3	3	......	......	......	......	......	......	......	......	......	......	......
Otsego	2	2	......	......	......	......	......	......	......	......	......	......	......
Putnam	6	2	......	4	......	......	......	3	1	......	......	......	......
Rensselaer	22	19	1	3	......	1	......	......	2	......	......	......	......
Rockland	21	16	......	5	......	......	......	......	5	......	......	......	......
St. Lawrence	4	4	......	......	......	......	......	......	......	......	......	......	......
Saratoga	36	29	......	7	1	2	4	......	......	......	......	......	......
Schenectady	19	18	......	1	......	1	......	......	......	......	......	......	......
Schoharie	1	1	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	4	3	......	1	......	......	......	......	1	......	......	......	......
Steuben	12	11	......	1	......	......	......	......	1	......	......	......	......
Suffolk	212	191	......	21	10	1	2	2	6	......	......	......	......
Sullivan	13	11	......	2	......	2	......	......	......	......	......	......	......
Tioga	1	......	......	1	......	......	......	1	......	......	......	......	......
Tompkins	1	1	......	......	......	......	......	......	......	......	......	......	......
Ulster	26	26	......	......	......	......	......	......	......	......	......	......	......
Warren	6	6	......	......	......	......	......	......	......	......	......	......	......
Washington	11	10	1	1	......	......	1	......	......	......	......	......	......
Wayne	18	16	......	2	......	1	......	......	1	......	......	......	......
Westchester	86	79	1	7	3	......	......	1	1	1	1	......	......
Wyoming	7	7	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......

*Figures in column 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 14 such proceedings statewide.

Table A-28 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Designated Felonies Only) Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	366	18	......	6	17	8	8	57	63	2	10	......
Total New York City	257	18	......	5	16	4	6	37	55	1	2	......
New York	40	4	......	1	4	......	......	4	7	......	......	......
Kings	76	5	......	......	4	2	6	5	21	......	......	......
Queens	22	7	......	......	2	1	......	1	1	......	......	......
Bronx	117	2	......	4	6	1	......	26	26	1	2	......
Richmond	2	......	......	......	......	......	......	1	......	......	......	......
Total Upstate	109	......	......	1	1	4	2	20	8	1	8	......
Albany	12	......	......	......	......	......	1	5	......	1	......	......
Allegany	1	......	......	......	......	......	......	......	......	......	......	......
Broome	2	......	......	......	......	......	......	......	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......	......
Clinton	1	......	......	......	......	......	......	......	......	......	1	......
Columbia	......	......	......	......	......	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......	......
Dutchess	10	......	......	......	......	......	......	......	......	......	6	......
Erie	8	......	......	......	1	2	......	3	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......	......
Jefferson	1	......	......	......	......	......	......	1	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......	......
Monroe	12	......	......	......	......	......	1	......	1	......	......	......
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	16	......	......	......	......	......	......	2	2	......	1	......
Niagara	......	......	......	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	3	......	......	......	......	1	......	1	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	1	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	3	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......	......
Schuyler	1	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......	......
Suffolk	29	......	......	1	......	1	......	7	3	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......	......
Tompkins	2	......	......	......	......	......	......	......	......	......	......	......
Ulster	2	......	......	......	......	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......	......
Washington	1	......	......	......	......	......	......	......	......	......	......	......
Wayne	1	......	......	......	......	......	......	1	......	......	......	......
Westchester	3	......	......	......	......	......	......	......	2	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-28 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Designated Felonies Only) Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	2	6	76	......	9	18	46	3	9	8
Total New York City	......	1	3	50	......	1	13	34	3	4	4
New York	......	......	......	3	......	1	4	9	2	......	1
Kings	......	1	1	23	......	......	2	4	......	......	2
Queens	......	......	......	6	......	......	......	1	......	2	1
Bronx	......	......	2	17	......	......	7	20	1	2	......
Richmond	......	......	......	1	......	......	......	......	......	......	......
Total Upstate	......	1	3	26	......	8	5	12	......	5	4
Albany	......	......	1	2	......	......	......	2	......	......	......
Allegany	......	......	1	......	......	......	......	......	......	......	......
Broome	......	......	......	2	......	......	......	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......
Dutchess	......	......	......	2	......	......	......	2	......	......	......
Erie	......	......	......	1	......	......	......	1	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......
Monroe	......	......	......	2	......	......	2	5	......	......	1
Montgomery	......	......	......	......	......	......	......	......	......	......	......
Nassau	......	1	......	3	......	2	1	1	......	1	2
Niagara	......	......	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	1	......	......	......	......	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	1	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	2	1
Rockland	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	1	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......
Suffolk	......	......	......	11	......	5	......	1	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	2	......	......	......	......	......	......	......
Ulster	......	......	......	......	......	......	......	......	......	2	......
Warren	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	1	......	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	......	......	1	......	......	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-29 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Deliquent (Designated Felonies Only) Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	26	......	......	......	2	......	2	4	3	......	1	......
Total New York City	17	......	......	......	2	......	......	2	3	......	......	......
New York	5	......	......	......	......	......	......	1	1	......	......	......
Kings	5	......	......	......	......	......	......	......	2	......	......	......
Queens	4	......	......	......	2	......	......	......	......	......	......	......
Bronx	3	......	......	......	......	......	......	1	......	......	......	......
Richmond	......	......	......	......	......	......	......	......	......	......	......	......
Total Upstate	9	......	......	......	......	......	2	2	......	......	1	......
Albany	1	......	......	......	......	......	1	......	......	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	......	......	......	......	......	......	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......	......
Dutchess	......	......	......	......	......	......	......	......	......	......	......	......
Erie	1	......	......	......	......	......	......	1	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......	......
Monroe	1	......	......	......	......	......	......	......	......	......	......	......
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	2	......	......	......	......	......	......	......	......	......	1	......
Niagara	1	......	......	......	......	......	......	1	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	......	......	......	......	......	......	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......	......
Suffolk	1	......	......	......	......	......	......	......	......	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......	......
Ulster	1	......	......	......	......	......	1	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	......	......	......	......	......	......	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

ſable A-29 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Designated Felonies Only) Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	......	......	10	......	......	......	3	......	1	......
Total New York City	......	......	......	7	......	......	......	2	......	1	......
New York	......	......	......	1	......	......	......	2	......	......	......
Kings	......	......	......	3	......	......	......	......	......	......	......
Queens	......	......	......	1	......	......	......	......	......	1	......
Bronx	......	......	......	2	......	......	......	......	......	......	......
Richmond	......	......	......	......	......	......	......	......	......	......	......
Total Upstate	......	......	......	3	......	......	......	1	......	......	......
Albany	......	......	......	......	......	......	......	......	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	......	......	......	......	......	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......
Dutchess	......	......	......	......	......	......	......	......	......	......	......
Erie	......	......	......	......	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	1	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......
Monroe	......	......	......	......	......	......	......	1	......	......	......
Montgomery	......	......	......	......	......	......	......	......	......	......	......
Nassau	......	......	......	1	......	......	......	......	......	......	......
Niagara	......	......	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	......	......	......	......	......	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......
Suffolk	......	......	......	1	......	......	......	......	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......
Ulster	......	......	......	......	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	......	......	......	......	......	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-30 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felonies) Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

		No Adjudication										
Region and County	Total Dispositions	Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	12,879	242	......	110	510	341	2,988	1,191	1,924	242	262	2
Total New York City	5,069	146	......	38	395	104	797	461	1,197	92	18	2
New York	1,294	78	......	9	99	30	69	139	248	57	4	......
Kings	1,870	19	......	11	156	48	391	116	535	9	......	......
Queens	989	45	......	5	77	5	194	46	233	15	2	2
Bronx	809	3	......	12	53	21	87	147	167	10	12	......
Richmond	107	1	......	1	10	......	56	13	14	1	......	......
Total Upstate	7,810	96	......	72	115	237	2,191	730	727	150	244	......
Albany	441	11	......	......	7	3	208	43	11	6	1	......
Allegany	4	......	......	......	......	......	......	......	......	......	......	......
Broome	183	6	......	5	1	......	8	42	1	3	1	......
Cattaraugus	57	......	......	......	......	......	33	1	......	1	......	......
Cayuga	89	1	......	2	1	1	21	6	1	......	......	......
Chautauqua	164	4	......	......	1	5	68	25	......	1	......	......
Chemung	110	1	......	......	1	1	5	1	3	......	10	......
Chenango	18	......	......	......	1	......	8	......	......	......	......	......
Clinton	13	......	......	......	......	......	1	......	2	1	1	......
Columbia	59	......	......	......	......	2	8	......	25	3	......	......
Cortland	45	......	......	3	......	......	10	1	......	......	......	......
Delaware	20	1	......	1	......	1	......	3	3	2	1	......
Dutchess	232	......	......	......	......	......	19	7	6	2	70	......
Erie	691	15	......	1	23	64	333	57	3	......	1	......
Essex	31	......	......	......	......	4	5	7	1	......	1	......
Franklin	46	......	......	......	......	......	7	5	2	1	......	......
Fulton	25	......	......	......	......	......	12	2	4	1	......	......
Genesee	54	......	......	......	2	......	27	4	7	......	......	......
Greene	14	......	......	......	2	......	4	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	38	1	......	......	......	1	3	......	......	1	2	......
Jefferson	87	2	......	......	......	......	3	14	7	2	1	......
Lewis	4	......	......	......	......	......	......	......	......	1	......	......
Livingston	24	1	......	......	......	1	6	2	5	......	......	......
Madison	60	......	......	......	2	1	13	3	......	......	1	......
Monroe	494	......	......	......	1	14	146	37	17	2	......	......
Montgomery	49	......	......	......	......	1	13	10	......	......	2	......
Nassau	743	4	......	......	1	6	146	45	6	66	83	......
Niagara	107	......	......	1	12	1	29	7	9	......	2	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	459	7	......	......	1	22	258	66	6	1	......	......
Ontario	25	1	......	......	......	......	1	2	......	1	......	......
Orange	163	......	......	......	4	......	29	33	4	2	......	......
Orleans	13	......	......	......	......	......	......	1	......	......	1	......
Oswego	40	4	......	......	......	1	2	8	......	......	......	......
Otsego	18	......	......	......	......	1	......	1	......	......	......	......
Putnam	40	2	......	......	......	1	15	5	7	2	......	......
Rensselaer	145	7	......	......	......	12	54	17	14	2	10	......
Rockland	94	2	......	......	5	2	22	4	6	7	......	......
St. Lawrence	56	......	......	......	6	1	5	1	......	1	13	......
Saratoga	211	1	......	......	1	16	125	24	......	......	......	......
Schenectady	97	......	......	......	......	1	8	3	7	2	12	......
Schoharie	18	......	......	......	......	......	2	2	......	......	......	......
Schuyler	10	1	......	......	......	......	3	1	......	......	......	......
Seneca	20	......	......	......	2	......	8	......	......	......	......	......
Steuben	55	......	......	......	......	......	13	10	4	1	4	......
Suffolk	1,502	14	......	56	36	43	248	110	415	17	3	......
Sullivan	66	......	......	......	......	7	12	2	1	......	6	......
Tioga	23	......	......	......	......	4	......	3	2	......	......	......
Tompkins	34	......	......	......	......	......	17	8	......	......	......	......
Ulster	151	......	......	......	1	4	55	32	13	......	......	......
Warren	29	......	......	......	......	......	5	2	2	4	......	......
Washington	61	4	......	......	......	......	22	1	3	......	2	......
Wayne	130	......	......	......	......	12	35	31	2	1	1	......
Westchester	401	5	......	3	4	3	100	37	128	16	15	......
Wyoming	39	......	......	......	......	......	15	4	......	......	......	......
Yates	8	1	......	......	......	1	1	......	......	......	......	......

Table A-30 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felonies) Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	1	149	303	2,767	13	443	487	771	3	9	121
Total New York City	1	40	60	879	2	36	399	346	3	4	49
New York	1	14	23	221	......	5	164	116	2	......	15
Kings	......	15	16	339	......	21	63	98	......	......	33
Queens	......	4	9	177	2	3	114	53	......	2	1
Bronx	......	6	10	136	......	7	58	77	1	2	......
Richmond	......	1	2	6	......	......	......	2	......	......	......
Total Upstate	......	109	243	1,888	11	407	88	425	......	5	72
Albany	......	......	21	69	1	21	1	38	......	......	......
Allegany	......	......	1	2	......	......	......	1	......	......	......
Broome	......	......	2	68	......	26	2	18	......	......	......
Cattaraugus	......	......	2	11	......	4	......	5	......	......	......
Cayuga	......	5	1	26	......	2	22	......	......	......	......
Chautauqua	......	1	2	36	......	11	2	8	......	......	......
Chemung	......	4	2	45	......	20	......	17	......	......	......
Chenango	......	......	......	6	3	......	......	......	......	......	......
Clinton	......	......	......	6	......	......	2	......	......	......	......
Columbia	......	......	......	10	......	3	5	3	......	......	......
Cortland	......	......	2	18	1	......	2	8	......	......	......
Delaware	......	......	......	4	......	......	......	4	......	......	......
Dutchess	......	11	6	69	......	21	......	21	......	......	......
Erie	......	4	12	120	1	25	......	32	......	......	......
Essex	......	......	5	5	......	1	2	......	......	......	......
Franklin	......	......	......	26	......	4	......	1	......	......	......
Fulton	......	......	......	2	......	......	......	4	......	......	......
Genesee	......	......	1	7	......	3	3	......	......	......	......
Greene	......	......	1	1	......	1	3	2	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	1	......	25	......	4	......	......	......	......	......
Jefferson	......	......	2	42	......	4	......	10	......	......	......
Lewis	......	......	......	3	......	......	......	......	......	......	......
Livingston	......	......	......	6	1	2	......	......	......	......	......
Madison	......	......	10	15	......	11	1	3	......	......	......
Monroe	......	19	28	117	......	21	7	66	......	......	19
Montgomery	......	......	1	10	......	4	......	5	......	......	3
Nassau	......	20	44	239	......	19	3	20	......	1	40
Niagara	......	1	......	19	......	4	14	8	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	5	8	34	......	25	......	26	......	......	......
Ontario	......	......	8	7	......	1	......	4	......	......	......
Orange	......	3	5	52	......	13	1	15	......	......	2
Orleans	......	......	......	4	......	6	......	1	......	......	......
Oswego	......	......	......	23	......	1	......	......	......	......	1
Otsego	......	1	......	13	......	2	......	......	......	......	......
Putnam	......	......	......	5	......	2	......	1	......	......	......
Rensselaer	......	......	3	14	......	6	2	......	......	2	2
Rockland	......	......	1	41	......	2	......	2	......	......	......
St. Lawrence	......	......	......	20	1	6	......	2	......	......	......
Saratoga	......	......	......	20	......	18	......	6	......	......	......
Schenectady	......	......	......	47	......	8	......	9	......	......	......
Schoharie	......	......	......	10	......	......	......	4	......	......	......
Schuyler	......	......	......	......	1	......	4	......	......	......	......
Seneca	......	......	1	4	......	......	3	2	......	......	......
Steuben	......	......	......	18	......	2	3	......	......	......	......
Suffolk	......	21	52	389	......	58	......	38	......	......	2
Sullivan	......	......	2	26	......	4	......	4	......	......	2
Tioga	......	......	......	10	......	2	1	1	......	......	......
Tompkins	......	......	1	7	......	1	......	......	......	......	......
Ulster	......	5	......	30	......	2	......	7	......	2	......
Warren	......	......	3	6	......	7	......	......	......	......	......
Washington	......	......	1	11	1	11	3	2	......	......	......
Wayne	......	......	8	22	......	10	1	6	......	......	1
Westchester	......	7	7	49	1	7	1	18	......	......	......
Wyoming	......	......	......	11	......	2	......	3	......	......	......
Yates	......	1	......	4	......	......	......	......	......	......	......

Table A-31 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felonies) Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	1,873	27	......	14	68	59	570	215	242	59	31	......
Total New York City	5,16	14	......	6	35	11	96	82	119	9	1	......
New York	154	7	......	1	8	6	16	41	21	3	1	......
Kings	186	......	......	2	13	2	50	18	57	1	......	......
Queens	118	7	......	2	10	2	22	5	31	4	......	......
Bronx	43	......	......	......	1	1	2	16	8	1	......	......
Richmond	15	......	......	1	3	......	6	2	2	......	......	......
Total Upstate	1,357	13	......	8	33	48	474	133	123	50	30	......
Albany	89	......	......	1	2	1	52	8	2	1	1	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......
Broome	41	1	......	1	2	......	2	8	......	1	......	......
Cattaraugus	13	......	......	......	......	......	11	1	......	......	......	......
Cayuga	17	1	......	......	......	......	4	1	......	......	......	......
Chautauqua	24	1	......	......	......	1	11	3	......	......	......	......
Chemung	17	......	......	......	......	......	4	......	......	......	......	......
Chenango	1	......	......	......	......	......	......	......	......	......	......	......
Clinton	4	......	......	......	......	......	1	......	......	......	......	......
Columbia	3	......	......	......	......	1	......	......	......	......	......	......
Cortland	2	......	......	......	......	......	1	......	......	......	......	......
Delaware	1	......	......	......	......	......	......	......	......	......	......	......
Dutchess	42	......	......	......	3	......	9	4	3	......	3	......
Erie	144	......	......	......	9	10	82	13	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	6	......	......	......	......	......	......	1	......	......	......	......
Fulton	3	......	......	......	......	......	3	......	......	......	......	......
Genesee	13	......	......	......	......	......	5	2	4	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	7	......	......	......	......	......	5	......	......	......	......	......
Jefferson	15	1	......	......	......	......	......	2	4	2	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	5	1	......	......	......	......	3	......	......	......	......	......
Madison	5	......	......	......	......	......	1	......	......	......	......	......
Monroe	127	......	......	......	......	2	52	13	10	1	......	......
Montgomery	8	1	......	......	......	......	5	......	......	......	......	......
Nassau	170	......	......	1	2	4	30	16	6	31	13	......
Niagara	15	......	......	......	3	......	2	2	2	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	55	......	......	......	......	4	25	17	......	......	......	......
Ontario	2	......	......	......	......	......	......	......	......	......	......	......
Orange	15	......	......	......	......	......	2	5	......	......	......	......
Orleans	1	......	......	......	......	......	......	......	......	......	......	......
Oswego	3	......	......	......	......	......	......	2	......	......	......	......
Otsego	2	......	......	......	......	......	......	......	......	......	......	......
Putnam	6	......	......	......	......	......	2	......	......	......	......	......
Rensselaer	22	1	......	......	1	......	12	2	2	......	1	......
Rockland	21	......	......	......	......	......	6	1	3	......	2	......
St. Lawrence	4	......	......	......	......	......	1	......	......	1	......	......
Saratoga	36	......	......	......	......	4	20	3	......	......	......	......
Schenectady	19	......	......	......	1	......	2	......	......	1	1	......
Schoharie	1	......	......	......	......	......	......	1	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	4	......	......	......	......	......	2	1	......	......	......	......
Steuben	12	......	......	......	......	......	3	2	5	......	......	......
Suffolk	212	2	......	4	8	17	56	9	57	8	......	......
Sullivan	13	......	......	......	......	3	1	......	......	......	3	......
Tioga	1	......	......	......	......	......	......	......	......	......	......	......
Tompkins	1	1	......	......	......	......	......	......	......	......	......	......
Ulster	26	......	......	......	......	......	12	3	4	......	......	......
Warren	6	......	......	......	1	......	......	1	......	......	......	......
Washington	11	2	......	......	......	......	7	......	......	......	......	......
Wayne	18	......	......	......	......	1	9	2	......	......	......	......
Westchester	86	1	......	1	1	......	27	8	21	4	6	......
Wyoming	7	......	......	......	......	......	4	2	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-31 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felonies) Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	18	41	321	2	86	31	77	......	1	11
Total New York City	......	3	3	87	......	7	18	21	......	1	3
New York	......	1	2	24	......	2	7	11	......	......	3
Kings	......	1	1	32	......	3	2	4	......	......	......
Queens	......	......	......	25	......	1	6	2	......	1	......
Bronx	......	......	......	6	......	1	3	4	......	......	......
Richmond	......	1	......	......	......	......	......	......	......	......	......
Total Upstate	......	15	38	234	2	79	13	56	......	......	8
Albany	......	......	4	12	......	......	1	4	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	......	15	1	8	......	2	......	......	......
Cattaraugus	......	......	......	......	......	1	......	......	......	......	......
Cayuga	......	4	1	1	1	3	1	......	......	......	......
Chautauqua	......	......	......	4	......	3	1	......	......	......	......
Chemung	......	......	1	3	......	7	......	1	......	......	1
Chenango	......	......	......	......	......	1	......	......	......	......	......
Clinton	......	......	1	2	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	1	1	......	......	......	......
Cortland	......	......	......	......	......	......	......	1	......	......	......
Delaware	......	......	......	1	......	......	......	......	......	......	......
Dutchess	......	......	2	9	......	8	......	1	......	......	......
Erie	......	......	7	14	......	2	......	7	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	5	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	2	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	1	......	......	......	......	......	......	......
Herkimer	......	......	......	1	......	1	......	......	......	......	......
Jefferson	......	......	......	3	......	......	......	3	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	1	......	......	......	......	......	......	......
Madison	......	......	......	......	......	2	......	2	......	......	......
Monroe	......	4	5	19	......	4	1	14	......	......	2
Montgomery	......	......	1	......	......	1	......	......	......	......	......
Nassau	......	3	5	43	......	3	1	7	......	......	5
Niagara	......	......	......	3	......	1	1	1	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	......	......	......	7	......	2	......	......	......
Ontario	......	......	......	1	......	1	......	......	......	......	......
Orange	......	......	1	5	......	2	......	......	......	......	......
Orleans	......	......	......	......	......	1	......	......	......	......	......
Oswego	......	......	......	1	......	......	......	......	......	......	......
Otsego	......	......	......	2	......	......	......	......	......	......	......
Putnam	......	......	......	2	......	2	......	......	......	......	......
Rensselaer	......	......	......	1	......	......	1	1	......	......	......
Rockland	......	......	......	6	......	2	1	......	......	......	......
St. Lawrence	......	......	......	2	......	......	......	......	......	......	......
Saratoga	......	......	......	5	......	4	......	......	......	......	......
Schenectady	......	......	......	12	......	2	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	1	......	......	......	......	......	......	......
Steuben	......	......	......	1	......	1	......	......	......	......	......
Suffolk	......	3	4	32	......	8	1	3	......	......	......
Sullivan	......	......	1	3	......	1	......	1	......	......	......
Tioga	......	......	......	......	......	......	1	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......
Ulster	......	......	......	7	......	......	......	......	......	......	......
Warren	......	......	......	2	......	......	......	2	......	......	......
Washington	......	......	......	1	......	1	......	......	......	......	......
Wayne	......	......	4	2	......	......	......	......	......	......	......
Westchester	......	1	1	10	......	1	......	4	......	......	......
Wyoming	......	......	......	1	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-32
FAMILY COURT
Original Petitions Initially Disposed
Original Allegations* of Family Offense Proceedings By Region
January 1, 1983 through December 31, 1983

Region	Total	Assault	Attempted Assault	Reckless Endanger-ment	Menacing	Disorderly Conduct	Harrass-ment	Other
Total New York State	34,936	13,732	1,297	1,133	2,252	5,895	10.624	3
Total New York City	16,427	6,890	649	520	1,311	1,823	5,232	2
Total Upstate	18,509	6,842	648	613	941	4,072	5,392	1

*Figure represents the total number of allegations. Since many petitions contain more than one allegation the total number of such allegations may be greater than the total number of petitions disposed.

Table A-33 (partial)
FAMILY COURT
Family Offense Proceedings
Original Petitions Initially Disposed by Petitioners and Respondents
January 1, 1983 through December 31, 1983

New York City

Respondents	Petitioners								
	Total	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	7,540	7,519	12	0	0	2	0	0	7
Father of Injured Individual	180	10	3	0	5	103	54	1	4
Wife of Injured Individual	599	0	2	593	3	0	0	0	1
Mother of Injured Individual	140	0	3	1	4	79	50	0	3
Son of Injured Individual	1,409	3	1,070	0	323	5	3	1	4
Daughter of Injured Individual	354	0	290	4	56	4	0	0	0
Other Member of Same Family or Household of Injured Individual	625	0	1	0	0	0	0	617	7
Other	283	0	1	0	0	0	0	3	279
Total	11,130	7,532	1,382	598	391	193	107	622	305

Upstate Counties

Respondents	Petitioners								
	Total	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	10,039	10,028	3	0	1	3	3	0	1
Father of Injured Individual	224	15	6	0	1	124	62	6	10
Wife of Injured Individual	1,114	0	1	1,108	2	2	1	0	0
Mother of Injured Individual	128	0	2	2	2	77	44	0	1
Son of Injured Individual	1,114	1	772	0	332	2	1	4	2
Daughter of Injured Individual	363	0	289	1	71	1	0	1	0
Other Member of Same Family or Household of Injured Individual	535	2	2	0	1	1	0	524	5
Other	146	0	2	2	0	2	1	3	136
Total	13,663	10,046	1,077	1,113	410	212	112	538	155

Table A-33 (concluded)
FAMILY COURT
Family Offense Proceedings
Original Petitions Initially Disposed by Petitioners and Respondents
January 1, 1983 through December 31, 1983

Statewide

		Petitioners							
Respondents	**Total**	**Wife of Respondent**	**Mother of Respondent**	**Husband of Respondent**	**Father of Respondent**	**Daughter of Respondent**	**Son of Respondent**	**Other Member Same Family/ Household of Respondent**	**Other**
Husband of Injured Individual	17,579	17,547	15	0	1	5	3	0	8
Father of Injured Individual	404	25	9	0	6	227	116	7	14
Wife of Injured Individual	1,713	0	3	1,701	5	2	1	0	1
Mother of Injured Individual	268	0	5	3	6	156	94	0	4
Son of Injured Individual	2,523	4	1,842	0	655	7	4	5	6
Daughter of Injured Individual	717	0	579	5	127	5	0	1	0
Other Member of Same Family or Household of Injured Individual	1,160	2	3	0	1	1	0	1,141	12
Other	429	0	3	2	0	2	1	6	415
Total	24,793	17,578	2,459	1,711	801	405	219	1,160	460

Table A-34
FAMILY COURT
Dispositions of Family Offense Proceedings by County
All Petitions
January 1, 1983 through December 31, 1983

Region County	Total	Dismissed Failure of Proof	Dismissed Failure to Prosecute	Other Dismissal	Withdrawn	Transfer to Another County	Consolidated With Another Petition	Judgment Suspended	Probation	Order of Protection	Probation and Order of Protection	Other
Total New York State	24,799	448	5,788	4,809	4,445	8	64	9	33	8,943	35	205
Total New York City	11,132	281	3,203	3,838	886	2	24	2	15	2,792	19	66
New York	1,845	37	661	386	171	1	1	1	1	565		19
Kings	4,038	97	800	2,083	243	1			6	789	6	13
Queens	3,072	111	1,273	397	342		21		3	901	13	9
Bronx	1,548	28	80	948	78		2	1	5	381		25
Richmond	629	8	389	24	52					156		
Total Upstate	13,667	167	2,585	971	3,559	6	40	7	18	6,151	16	139
Albany	362	5	52		114	1			2	184		2
Allegany	54			6	12		1		2	32		1
Broome	318	7	34	62	8		1		1	201		4
Cattaraugus	16			4	5					6	1	
Cayuga	124	3	2	8	38					71		2
Chautauqua	64	3	17	8	11					25		
Chemung	46		4		5					28		9
Chenango	78	2	13	4	15				1	42		1
Clinton	32		1		17			1		13		
Columbia	52	6	3		23		1			19		
Cortland	101		15	2	31	3	2			48		
Delaware	67	2	1	4	25		1		1	33		
Dutchess	341	9	54	29	106				2	141		
Erie	867	4	235	60	104		2			453		9
Essex	37		1	3	12					21		
Franklin	59			5	25			1		27	1	
Fulton	153		12	2	46					93		
Genesee	82	2	5	3	16				1	55		
Greene	98		11	8	24					55		
Hamilton	4				2					2		
Herkimer	189	2	22	7	53					105		
Jefferson	269		9	22	99					138		1
Lewis	36		2	1	11					22		
Livingston												
Madison	60	1	10	2	18					27	2	
Monroe	392		11	82	64	1				232		2
Montgomery	77			14	15					47		1
Nassau	2,740	26	485	121	954					1,110	3	41
Niagara	149		4	9	53					81		2
Oneida												
Onondaga	711	1	124	155	42	1				384	2	2
Ontario	130	1	13	5	21					87		3
Orange	82		3	4	17					57		1
Orleans	19	1		4	4					9	1	
Oswego	15		1		11					3		
Otsego	8				4					4		
Putnam	99	2	8		33					54		
Rensselaer	255	1	20	5	73		22		1	128	1	4
Rockland	392	14	49	25	93		2		3	205		1
St. Lawrence	97	3	1	3	21					69		
Saratoga	113		16	11	18					69		1
Schenectady	169	3	19	4	47					96		
Schoharie	50				15			1		34		
Schuyler	46		22	8					1	15		
Seneca	24		9	1						14		
Steuben	58		5	12	11					29		
Suffolk	2,125	53	771	111	631		1	3	2	718	3	32
Sullivan	100		6	19	26					49		
Tioga	65	3	4	1	16					41		
Tompkins	59		3	5	5					46		
Ulster	173		16	4	90					57		9
Warren	28	1	2	2	7		1			15		
Washington	17		1		6					10		
Wayne	58		7	6	33					12		
Westchester	1,634	12	481	120	416		6	1	1	595	2	10
Wyoming	51		1		13					36	0	1
Yates												

Letter of Transmittal

To:

THE HONORABLE MARIO M. CUOMO, Governor of the State of New York,
and
The Legislature of the State of New York:

Pursuant to Section 212 (j) of the Judiciary Law, I submit this annual report of the activities and state of the unified court system in 1984.

Joseph W. Bellacosa
Chief Administrator
of the Courts

March 15, 1985

COURT OF APPEALS

Sol Wachtler, *Chief Judge*

Matthew J. Jasen
Bernard S. Meyer

Judith S. Kaye
Fritz W. Alexander II
Richard D. Simons

ADMINISTRATIVE BOARD OF THE COURTS

Sol Wachtler, *Chairman*

Francis T. Murphy
Milton Mollen

A. Franklin Mahoney
Michael F. Dillon

STATE OF NEW YORK

Report
of
The Chief Administrator of the Courts

For the Calendar Year

January 1, 1984 — December 31, 1984

Court of Appeals (1984)
Lawrence H. Cooke, *Chief Judge*

Matthew J. Jasen
Hugh R. Jones
Sol Wachtler
Bernard S. Meyer
Richard D. Simons
Judith S. Kaye

Chief Administrative Judge of the Courts
Robert J. Sise

Administrative Board of the Courts
Lawrence H. Cooke, *Chairman*

Francis T. Murphy
Milton Mollen
A. Franklin Mahoney
Michael F. Dillon

State of New York
Unified Court System
1984

ROBERT J. SISE
Chief Administrative Judge

BETTY WEINBERG ELLERIN
Deputy Chief Administrative Judge
Courts in New York City

S. MICHAEL NADEL
Deputy Chief Administrator
for Management Support

RICHARD J. DARONCO
Deputy Chief Administrative Judge
Courts Outside New York City

Administrative Judges

RICHARD D. HUTTNER
Administrative Judge
New York City Family Court

ISRAEL RUBIN
Administrative Judge
New York City Civil Court

JOSEPH B. WILLIAMS
Administrative Judge
New York City Criminal Court

XAVIER C. RICCOBONO
Administrative Judge
First Judicial District
Supreme Court, Civil Branch

MILTON L. WILLIAMS
Administrative Judge
First Judicial District
Supreme Court, Criminal Branch

LEONARD E. YOSWEIN
Administrative Judge
Second Judicial District
Supreme Court

FRANCIS X. SMITH
Administrative Judge
Eleventh Judicial District
Supreme Court

LOUIS FUSCO, JR.
Administrative Judge
Twelfth Judicial District
Supreme Court, Civil Branch

BURTON B. ROBERTS
Administrative Judge
Twelfth Judicial District
Supreme Court, Criminal Branch

HAROLD E. KOREMAN
Presiding Judge
Court of Claims

EDWARD S. CONWAY
District Administrative Judge
Third Judicial District

J. RAYMOND AMYOT
District Administrative Judge
Fourth Judicial District

WILLIAM R. ROY
District Administrative Judge
Fifth Judicial District

HOWARD A. ZELLER
District Administrative Judge
Sixth Judicial District

JOSEPH G. FRITSCH
District Administrative Judge
Seventh Judicial District

JAMES B. KANE
District Administrative Judge
Eighth Judicial District

JOSEPH F. GAGLIARDI
District Administrative Judge
Ninth Judicial District

ARTHUR D. SPATT
Administrative Judge
Nassau County

ARTHUR M. CROMARTY
Administrative Judge
Suffolk County

- ★ -

MICHAEL COLODNER
Counsel

WILLIAM CLAPHAM
Director, Budget and Finance

THOMAS CHRISTIAN
Director, Community Dispute
Resolution Centers Program

MICHAEL F. MCENENEY
Director, Court Operations Services

DONALD A. TAYLOR
Director, Education and Training

HOWARD RUBENSTEIN
Director, Employee Relations

ADRIENNE WHITE
Director, Equal Employment
Opportunity

WILLIAM GALLAGHER
Inspector General

RICK ROSS
Director, Programs and Planning

HAROLD WOLFE
Director, Public Information

Preface

This is the Seventh Annual Report of the Chief Administrator of the Courts. It is submitted pursuant to section 212(j) of the Judiciary Law and covers the period from January 1, 1984 through December 31, 1984.

This report is the seventh in a series that succeeded the annual reports of the Administrative Board of the Judicial Conference, the Judicial Conference, and the Office of Court Administration. That series, in turn, had succeeded the annual reports of the Judicial Council.

The report consists of four chapters. Chapter 1 describes the objectives, the structure, the administration and the financing of the courts in New York State. Chapter 2 presents the caseload activity report for court operations in calendar year 1984. Chapter 3 reports on education and training programs conducted, coordinated or assisted by the Office of Court Administration in 1984.

Chapter 4 summarizes (a) the legislation sponsored by the Office of Court Administration at the 1984 session of the Legislature and (b) rules revised or added during that year. It includes the *1985 Report of the Advisory Committee on Civil Practice to the Chief Administrator of the Courts of the State of New York*, the *1985 Report of the Advisory Committee on Criminal Law and Procedure to the Chief Administrator of the Courts of the State of New York*, the *1985 Report of the Family Court Advisory and Rules Committee to the Chief Administrator of the Courts of the State of New York.*

The Appendices consist of two sections : 1) Other Programs (Retainer and Closing Statements, Statements of Approval of Compensation, Attorney Registration, and Adoption Affidavits), and 2) Family Court Statistics.

The narrative, reportorial and statistical data collected in this report are intended to help the reader and ourselves to understand the judicial branch a bit better. This report can also serve to plan better for the future because by looking back we may see more clearly ahead. What this report cannot convey and cannot do is recount the abiding, burning commitment to the ideal of justice equally dispensed for all. That can be sensed only through the day to day human dynamics of the people in the courthouse: judges, nonjudicial staff, officials, citizens, everyone. And that cannot statistically be measured. It can always be improved though. And that is the real goal which should remain clear and primary.

Please Do Not Destroy or Discard This Report.

When this report is of no further value to the holder, please return it to the Office of Court Administration, 270 Broadway, New York, N.Y. 10017, so that copies will be available for replacement in our sets and for distribution to those who may request them in the future.

Acknowledgment

The Chief Administrator of the Courts gratefully acknowledges the assistance and cooperation extended to him and to the Office of Court Administration during the past year by the governor and his staff, members of the Legislature, members of the Judiciary, court personnel, bar associations, and individual lawyers and laypersons.

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Chapter 1

The Courts

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became effective September 1, 1962, bringing about the first court reorganization in New York since 1894.

Article VI provides for a "unified court system for the state," specifies the organization and the jurisdiction of the courts in the state, and establishes the method of selection and removal of judges and justices.

Article VI also provides for the administrative supervision of the courts. Since April 1, 1978, under a court reform constitutional amendment approved by the people in November 1977, the responsibility and the authority for that function have been vested in the Chief Judge of the Court of Appeals, who is the Chief Judge of the State.

The Judiciary (1) provides a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determines the legality of wills, adoptions, uncontested divorces and other undisputed matters submitted to the courts for review and approval; (3) provides legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; and (4) regulates the admission of lawyers to the Bar and their conduct and discipline.

1.1 Court Structure

In New York State the courts of original jurisdiction, or trial courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts in the Third and Fourth Judicial Departments. The *trial courts* of the superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York and, outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1a and 1b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. They are appointed by the governor for 14-year terms, with the advice and consent of the Senate, from among persons found to be well-qualified by the Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or Federal statute. In other matters, the Constitution provides that certain types of cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

The Court also hears appeals from determinations of the State Commission on Judicial Conduct.

The *Appellate divisions of the Supreme Court* are established in each of the state's four judicial departments (see the map at the beginning of this report). Their responsibilities are:

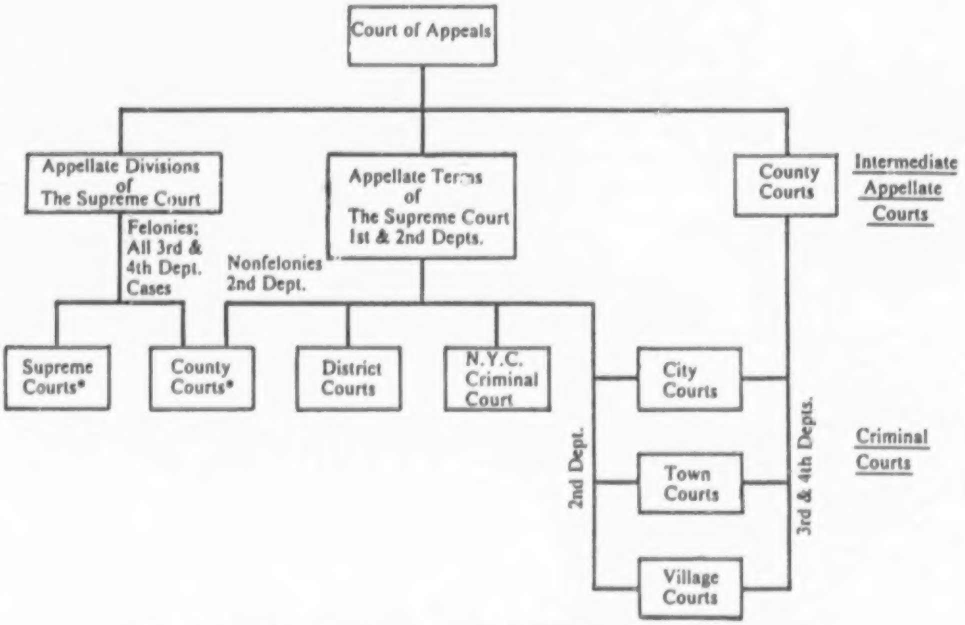
—Resolving appeals from judgments or orders of the superior court of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms and the County Courts acting as appellate courts.

—Conducting proceedings to admit, suspend, or disbar lawyers.

Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in county-level courts and original jurisdiction over selected proceedings. Where established by the Appellate Division, *Appellate Terms* exercise jurisdiction over civil and criminal appeals from various local courts and nonfelony appeals from the County Courts in the Second Judicial Department.

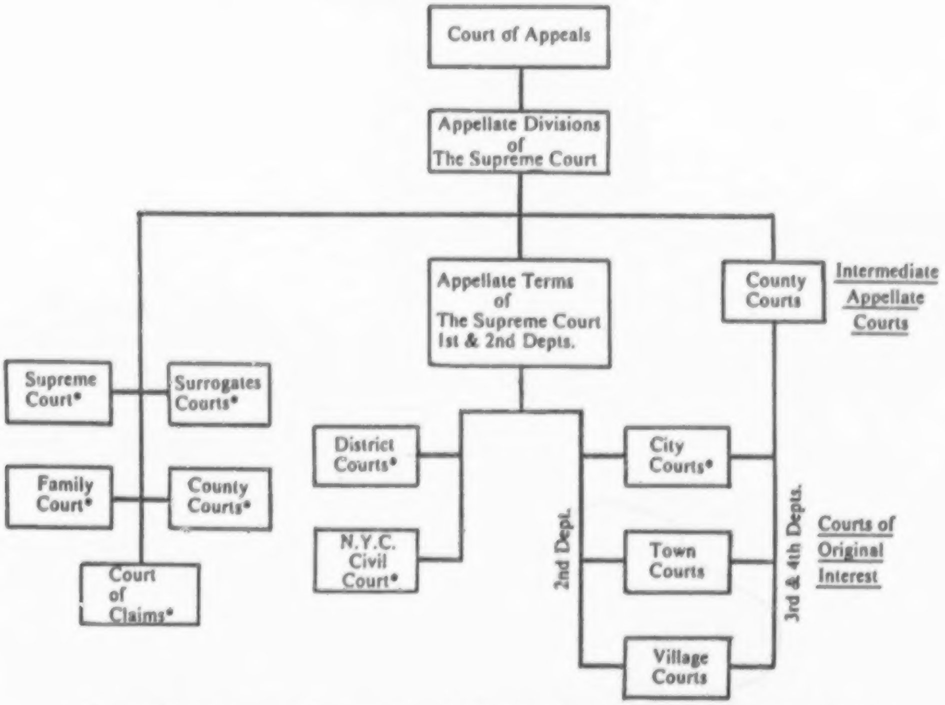
As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor.

Figure 1-a
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure


Court of Appeals
Appellate Divisions of The Supreme Court
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Felonies; All 3rd & 4th Dept. Cases
Nonfelonies 2nd Dept.
Supreme Courts*
County Courts*
District Courts
N.Y.C. Criminal Court
City Courts
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Criminal Courts

*Appeals involving death sentences must be taken directly to the Court of Appeals.

Figure 1-b
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Structure


Court of Appeals
Appellate Divisions of The Supreme Court
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Supreme Court*
Surrogates Courts*
Family Court*
County Courts*
Court of Claims*
District Courts*
N.Y.C. Civil Court*
City Courts*
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Courts of Original Interest

*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United States Constitution may be taken directly to the Court of Appeals. Only some of the City Courts are courts of record.

The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are designated for five-year terms or for the remainder of their terms of office, whichever period is shorter. Section 212 of the Judiciary Law provides that justices of the Appellate Terms shall be designated by the Chief Administrator of the Courts with the approval of the Presiding Justices.

The *Supreme Court* has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

—Civil matters beyond the financial limits of the courts' jurisdiction.

—Divorce, separation, and annulment proceedings;

—Equity suits, such as mortgage foreclosures and injunctions; and

—Criminal prosecutions of felonies and indictable misdemeanors in New York City.

—Supreme Court justices are elected by judicial district for 14-year terms.

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecutions of offenses committed within the county, although in practice, most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to $25,000.

County Court judges are elected in each county for terms of 10 years.

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. The principal types of cases it hears include:

—Support of dependent relatives;

—Juvenile delinquency;

—Child protection;

—Persons in need of supervision;

—Review and approval of foster-care placements;

—Paternity determinations;

—Family offenses; and

—Adoptions (concurrent jurisdiction with the Surrogate's Court).

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The *New York City Civil Court* tries civil cases involving amounts up to $25,000. It includes a Small Claims Part for the informal disposition of matters not exceeding $1,500 and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms. In addition to Civil Court judges, special Housing judges are appointed for 5-year terms to sit in Housing Parts. They are not, however, constitutional judges. The appointments are made by the Administrative Judge of the Civil Court.

The *New York City Criminal Court* conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: *District, City, Town* and *Village Courts.* These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The *Court of Claims* is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, for nine-year terms.

(See Table 1 for the authorized number of judges in the State Judiciary.)

1.2 Court Administration

Section 28 of Article VI of the State Constitution provides that the Chief Judge of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a Chief Administrator of the Courts (who is called the Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chairman and Presiding Justices of the four Appellate Divisions of the Supreme Court.

The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board of the Courts and promulgates them after approval by the Court of Appeals.

The Chief Administrator, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts, called the Office of Court Administration (OCA). In this task, the Chief Administrator is assisted by two Deputy Chief Administrative Judges, who supervise the day-to-day operations of the trial courts in New York City and in the rest of the state, respectively; a Deputy Chief Administrator, who supervises the operations of the units that make up the Office of Management Support; and a Counsel, who directs the legal and legislative work of the Counsel's Office.

The Office of Management Support provides the administrative services required to support all court and auxiliary operations. These services include personnel and budget administration; programs and planning operations; operational services; educational programs for judges and nonjudicial personnel; public information services; employee relations; equal opportunity programs; the Office of Inspector General; and the Community Dispute Resolution Centers Program.

Counsel's office prepares and analyzes legislation, represents the Unified Court System in litigation, and provides various other forms of legal assistance to the Chief Administrator of the Courts.

Responsibility for on-site management of the trial courts and agencies is vested with the Administrative Judges. In each upstate judicial district, there is a District Administrative Judge who is responsible for supervising all courts and agencies. In New York City, Administrative Judges supervise each of the major courts, and the Deputy Chief Administrative Judge provides for management of the complex of courts and court agencies within the city. As a result of an internal management reorganization in 1981, the Administrative Judges not only manage court caseload, but also are responsible for general administrative functions, including personnel and budget administration and all fiscal procedures.

Chapter 156 of the Laws of 1978 implements the constitutional provisions on the administrative supervision of the court system. Section 211-213 of Article 7-A of the Judiciary Law set forth the administrative functions of the Chief Judge, the Chief Administrator, and the Administrative Board. (See Figure 2).

1.3 Court Finances.

For the New York State fiscal year ending March 31, 1985, the anticipated expenditures for operating all the state courts, except town and village justice courts, were $611.2 million.

1.4 Some Key Administrative Developments in the Unified Court System.

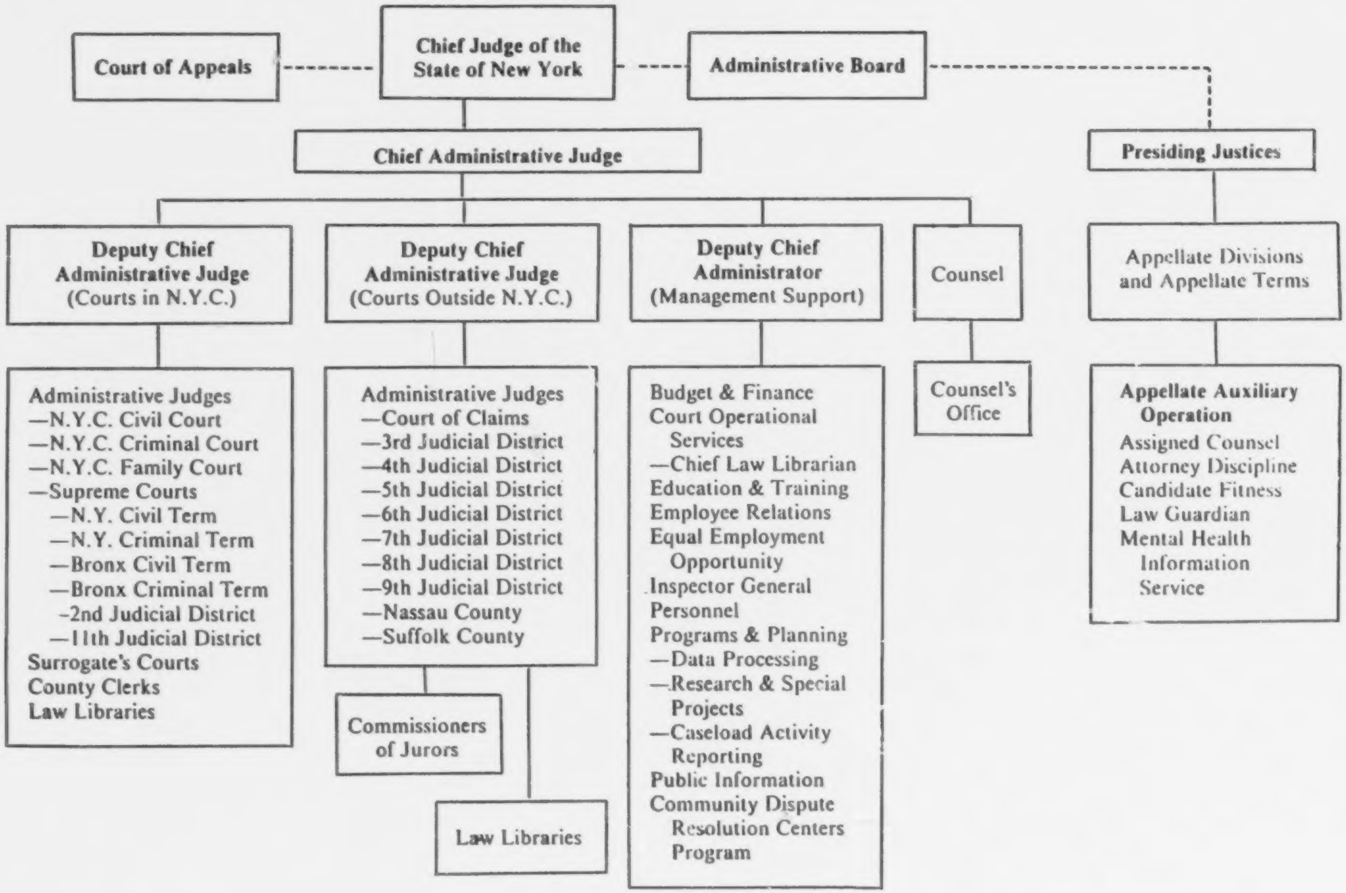
Events of 1984 again severely tested the Unified Court system. Caseload increases of the past several years continued unabated. But the judges, justices and nonjudicial employees who are the Unified Court System exerted maximum effort and made gains in case disposition (see Chapter 2, Caseload Activity Report).

1.4.1 Budget Process and Format

The budget process for the trial courts continues to benefit from management improvements and new automation applications. An integrated approach has evolved combining budget, fiscal and management review into a highly effective process. The process of projecting needs for 1985-86 was a most rigorous one. It involved initial preparation by the courts and agencies, review by the Administrative Judges' Offices, and hearings conducted by the Unified Court System's Office of Management Support on behalf of the Chief Administrative Judge. Budget development and review took place within specific guidelines. They provided for preparation of the zero-based budget by each court and agency, which served to sharply focus final management review on areas where budgetary change was beyond expected norms. For example, inflation factors were established which drew upon the conclusions of outside professional forecasting sources and state fiscal managers, including the findings of the New York State Budget Division Economic Forecasting Model.

Since the inception of state takeover under the Unified Court Budget Act of 1976, the Office of Court Administration has sought to improve budget organization. In the first several years the budget was organized on geographic lines to provide for the informational requirements of the funding transition. Budget organization later became based on type of court or agency or function. During that period effort was also directed to developing staffing criteria and workload data for each type of court and agency. The budget for 1984-85 reflected the next major step in the budget development process. The program structure in use for several years was maintained, while each program was presented in terms oif the administrative units responsible for managing the program. In that way, management, resources and workload have been linked at a more meaningful level. For 1985-86, the

Figure 2
UNIFIED COURT SYSTEM
ADMINISTRATIVE STRUCTURE


Court of Appeals
Chief Judge of the State of New York
Administrative Board
Chief Administrative Judge
Presiding Justices
Deputy Chief Administrative Judge (Courts in N.Y.C.)
Deputy Chief Administrative Judge (Courts Outside N.Y.C.)
Deputy Chief Administrator (Management Support)
Counsel
Appellate Divisions and Appellate Terms
Administrative Judges
—N.Y.C. Civil Court
—N.Y.C. Criminal Court
—N.Y.C. Family Court
—Supreme Courts
—N.Y. Civil Term
—N.Y. Criminal Term
—Bronx Civil Term
—Bronx Criminal Term
-2nd Judicial District
—11th Judicial District
Surrogate's Courts
County Clerks
Law Libraries
Administrative Judges
—Court of Claims
—3rd Judicial District
—4th Judicial District
—5th Judicial District
—6th Judicial District
—7th Judicial District
—8th Judicial District
—9th Judicial District
—Nassau County
—Suffolk County
Commissioners of Jurors
Law Libraries
Budget & Finance
Court Operational Services
—Chief Law Librarian
Education & Training
Employee Relations
Equal Employment Opportunity
Inspector General
Personnel
Programs & Planning
—Data Processing
—Research & Special Projects
—Caseload Activity Reporting
Public Information
Community Dispute Resolution Centers Program
Counsel's Office
Appellate Auxiliary Operation
Assigned Counsel
Attorney Discipline
Candidate Fitness
Law Guardian
Mental Health Information Service

format was expanded to include additional information on various programs within administrative units, such as Small Claims Assessment Review, Arbitration and Housing Court.

1.4.2 Information and Records Management in the Trial Courts

The creation and management of information and records is one of the principal activities performed in the trial courts of the Unified Court System in support of administration and the case disposition process. The performance of information and records management functions is the primary job of about half of the nonjudicial staff of the trial courts. These functions include, but are not limited to, the review of case-initiation papers and the opening of case files; case indexing; docketing and scheduling; the production of court calendars; case inquiry; the processing of case-related notices; orders, applications and motions; the collection of fees, fines, bail and other costs; the transmission of case records from place to place in courthouses; the processing of records on appeal; the storage and retrieval of case records and exhibits; the creation of reports on caseload activity and the status of case inventories; the production and processing of juror qualification questionnaires and summonses; the maintenance of juror service records; the payment of jurors; the reporting of criminal case disposition information to the Executive Branch; text editing; the processing of mail; budget and fiscal administration, personnel records management and information services; and law library administration.

The Unified Court System uses computer technology to meet information and records management requirements. At the same time, manual systems or techniques can be a more effective approach to information and records management for particular sites or functions.

While automation has already begun to reduce back-office workload problems, additional personnel are required to perform functions which cannot be entirely routinized or where resolution of issues transcends the capabilities of computerization. In this regard, the information and records management functions of the trial courts can be performed with efficiency, quality, and cost-effectiveness only if personnel resources for these functions are properly allocated and organized.

To this end, in the spring of 1984 a Staffing Profiles Project was begun to develop standards for personnel resource allocation and organization for the performance of these information and records management functions. The project, which is expected to span three years, began with a statewide survey of clerks of court which provides descriptions of present information and records management functional methodologies and staffing allocations in the Supreme and County Courts, Family Courts, and City and District Courts. Back-office organization charts and "activity tables" describing personnel allocations to all back-office tasks will be compiled in the project's second phase.

Information and records management committees of court clerks will guide the development and implementation of particular profiles. A committee is in place for each type of court. Every judicial district is represented on each committee. The specialized New York City courts of limited jurisdiction also are represented.

1.4.3 Civil Transfer Plan

The Civil Transfer Plan established in 1980 to reduce civil case backlogs will be continued in 1985. In 1984, 12 Civil Transfer Plan parts were operational. Beginning in January 1985, 14 parts will operate under this plan. Ten parts will be continued in New York City. Three parts of County Court will be established in Westchester, and one additional part in Family Court will be established in Nassau. Further, there will be one backfill part in County Court, Westchester County, and one backfill part in Supreme Court, Erie County. This plan equates to 154 additional judge terms of court, or about 14 additional judgeships.

1.4.4 Family Court Hearing Examiner Program

Family Court Hearing Examiner Programs, established pursuant to Section 459 of the Family Court Act, are available in nine upstate localities and the four largest counties in New York City. The examiners hear and make recommendations principally on support proceedings. In this way, the examiners free the time of judges to hear and determine other matters, including juvenile delinquency, paternity, neglect and abuse, custody and foster care review. In 1983, about 30,900 cases were referred to hearing examiners.

For some time, the New York City Family Court has been unable to keep pace with the volume of support petitions filed by the Department of Social Services pursuant to Title IV-D of the Social Security Act and the Family Court Act. The court has been hearing about 21,500 petitions per year. In order to remedy this situation, three additional hearing examiner parts were established late in 1984 through a temporary funding arrangement. The addition of these three parts will permit about 50,000 support petitions to be processed annually.

As a result of OCA claims for Federal reimbursement for Family Court child support (Title IV-D) functions, the state has received $8.3 million to date and is eligible for an additional $6 million for the period July 1980 through September 1982. It is estimated that an additional $8 million will be received for the period October 1982 through September 1983 and $6 million per year thereafter.

1.4.5 Judicial Hearing Officers

As a result of the enactment of Chapter 840 of the Laws of 1983, the Chief Administrator has designated 173 retired judges and justices as Judicial Hearing Officers. Proceedings referred to Judicial Hearing Officers include civil matters, such as matrimonial issues, accounting proceedings, certiorari, equitable distribution, enforcement proceedings, and medical malpractice panels, and criminal matters, such as hearing on pretrial motions. It is planned to continue and expand this highly effective program in 1985.

1.4.6 Community Dispute Resolution Centers Program

Established pursuant to Chapter 847 of the Laws of 1981, this program provides financial and operational support to locally operated neighborhood centers for the resolution of minor disputes, including many that now clog the courts of limited jurisdiction and contribute to delays and backlogs in the court system. Chapter 156 of the Laws of 1984 made the Community Dispute Resolution Centers Program a permanent component of the Unified Court System.

Since the program began, 154,866 contacts and referrals have been made by the 39 centers serving 43 counties. Among other services, the centers handled 39,644 disputes where an actual conciliation, mediation or arbitration was conducted. (Copies of the latest report on this program are available from OCA's Community Dispute Resolution Centers Program office.)

In the next three years, it is planned to expand the program so that dispute resolution centers services will be available in all 62 counties . There will be a variety of program models based on the workload volume for each county. In less populated areas, volunteer citizen mediators will be available through coordination from a regional office. In urban areas a fully staffed dispute resolution center will be in place.

1.4.7 Law Library and Legal Reference Network

Substantial funding reductions in the face of severe cost increases in the legal reference material industry during the past several years have seriously impaired the ability of law libraries to provide needed services. Several significant administrative policies and procedures have been implemented, including review and approval by the Chief Law Librarian of all proposed legal reference expenditures; negotiation of bulk purchase agreements with several of the largest legal reference publishers, saving over $500,000 annually; centralized billing; and redistribution of legal reference resources to insure that all trial courts, agencies and libraries are provided to the extent possible with the basic collections necessary for legal research. As a result of these policies, which aim to create a true legal reference network operating in an efficient environment, major improvements have resulted in the management of the legal reference system.

1.4.8 Jury Management

A program to achieve the greatest possible efficiencies in the utilization of jurors has been underway in the Unified Court System since the spring of 1982. During the first year, three counties were selected as pilot sites for the collection and analysis of data on juror utilization. In May 1983, the program was expanded to 23 jury assembly rooms in 12 counties. It is currently operational in 15 counties, which represent 85 percent of the statewide jury trial activity.

To date, two principal utilization measures have been emphasized. The first is "overcall", defined as the percentage of prospective (paid) jurors not in use in *voir dire* or trial at the point of peak daily juror usage. The second is "percent to *voir dire*," defined as the percentage of prospective (paid) jurors reporting to the pool who are sent to *voir dire* (whether examined or not). The data from the program show that during the first six months of 1984, an average of 92 percent of all jurors reporting for service each day were examined as prospective jurors (used in *voir dire*). Compared with utilization rates in 1983, this represents actual annual savings of juror fees and expenses of about $1.2 million.

A Jury System Management Advisory Committee was appointed in May 1984 to study and make recommendations on a wide range of jury system management issues. It submitted an interim report in December 1984 (copies are available from OCA's Public Information Office.)

1.4.9 Judicial Records Disposition and Archives Development Project

The National Historical Publications and Records Commission, a Federal agency, awarded a grant to the Unified Court System to underwrite nearly one-half of the cost of the New York Judicial Records Disposition and Archives Development Project. The project, a two and one-half year effort, has been undertaken by the Unified Court System in close collaboration with the

Table 1
NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges
December 31, 1984

Number of Judges	*Court*
7	Court of Appeals
44[a]	Supreme Court, Appellate Divisions
276[a,b]	Supreme Court, Trial Parts
42[a]	Supreme Court, Certificated Retired Justices
17	Court of Claims
15	Court of Claims - Judges apointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program, as amended by Chapters 500, 501, Laws of 1982.
33	Surrogates' Courts - including 6 Surrogates in the City of New York
67	County Courts - County Judges, outside the City of New York, in counties that have separate Surrogates and Family Court Judges
10	County Courts - County Judges who are also Surrogates
7	County Courts - County Judges who are also Family Court Judges
33	County Courts - County Judges who are also Surrogates and Family Court Judges
115	Family Courts - including 42 Family Court Judges in the City of New York
107	Criminal Court of the City of New York
120[c]	Civil Court of the City of New York
49	District Courts - in Nassau and Suffolk Counties
166	City Courts in the 61 Cities outside the City of New York, including Acting and Part-time Judges
1,108	Total
2,327	Town and Village Justice Courts

[a] In addition to the 24 Supreme Court Justices permanetly authorized, 14 Justices and 6 Certificated Retired Justices were temporarily designated to the Appellate Division.

[b] Does not include judges of other courts, especially the Civil and Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year.

[c] Does not include the additional 11 Civil Court Judgeships authorized by the 1982 Session Laws, Chapter 500, but still not filled.

State Archivist. It was inspired by concerns that the records of New York's courts, many of which date back to the state's colonial era and which now occupy some three-quarters of a million cubic feet of space, are virtually inaccessible to researchers and in serious danger of deterioration or loss.

The project will involve the collaborative efforts of court system personnel, the State Archivist and his staff, librarians and local government officials in addressing these matters: (1) retention schedules for court records; (2) appraisal, custody and maintenance of archival court records; (3) preservation, access and space savings; and (4) automated information retrieval.

1.4.10 Task Force on Permanency Planning for Children in Foster Care

The Task Force on Permanency Planning for Children in Foster Care was established in 1984 to examine the statewide foster care program, determine where problems exist and develop workable solutions. The 23-member Task Force will also plan and develop training designed to increase awareness, among administrative and judicial personnel, of foster care failings and how they can best be remedied. This work, conducted with the help of the U.S. Department of Justice and the National Council of Juvenile and Family Court Judges, is aimed at giving children in foster care the benefit of a permanent family without delay.

Chapter 2

Caseload Activity Report

2.1 Introduction

There were 2,527,017 filings in the trial courts of the Unified Court System during 1984.[1] [2] Fifty percent (1,254,984) were filed in criminal courts, 30% (768,040) in civil courts, 15% (385,035) in the Family Courts, and 5% (118,958) in the Surrogates' Courts.

Dispositions in the trial courts during 1984 totaled 2,503,465 as follows: criminal courts—47%, civil courts—31%, Family Courts—15%, Surrogates' Courts—7%.

Table 2 shows a breakdown of filings and dispositions in the trial courts by type of court.

2.2 Criminal Cases

Criminal cases are processed in the trial courts as follows. Felony indictments and superior court information are processed in the Criminal Terms of Supreme Court in New York City and in the County Courts outside of New York City. In several counties outside of New York City, a portion of the felony caseload is processed in the Supreme Court as well. The courts of limited jurisdiction—Criminal Court of the City of New York; District Courts of Nassau and Suffolk; and City, Town, and Village Courts outside of New York City— have original jurisdiction over felonies and complete jurisdiction over misdemeanors, violations, and infractions.

Criminal Terms of Supreme and County Courts

Filings: Statewide, 49,191 felony cases were filed in Supreme and County Courts during 1984.[3] This level of filings was an increase of 4% from the 47,340 filings in 1983 and 47,363 in 1982. Sixty percent (29,529) of 1984 filings occurred in New York City.

Table 3 shows a breakdown of 1984 filings by judicial district. The greatest rates of increase were in the 8th (Erie and surrounding counties) and 11th (Queens) JDs and in Suffolk county (10th JD). Filings in the 11th JD rose 20% from 4,865 in 1983 to 5,817 in 1984. Filings in Suffolk increased 14% from 2,840 to 3,238. In the 8th JD, filings increased 10% from 2,658 in 1983 to 2,917 in 1984. All other district changes were moderate by comparison.

Table 4 focuses on individual counties, ranking those with 400 or more felony-case filings or dispositions. Sixteen of the sixty-two counties accounted for 88% of all filings. New York County had the highest volume, with 10,389 filings. Kings, Queens, and the Bronx followed.

Dispositions: Statewide, 50,354 cases reached disposition (guilty plea, trial verdict, dismissal, or other) in 1984. This total exceeded new case filings (49,191) by 2%. Sixty percent (30,279) of the statewide dispositions were in New York City.

Table 3 shows 1984 dispositions by judicial district. Dispositions in the 9th JD (Westchester and surrounding counties) exceeded filings by 11%, in the 12th JD (Bronx) by 9%, and in the 1st JD (New York County) by 8%. Dispositions in the 11th JD (Queens) increased 8% compared with 1983.

Table 4 shows that fifteen counties with over 400 dispositions accounted for 87% of all felony-case dispositions and that eleven counties accounted for 88% of felony trials commenced statewide. Of the total of 5,296 felony trials commenced, 4,456 (84%) were jury trials.

Figure 3 shows felony-case dispositions by type. There were 39,395 guilty plea (78%), 5,279 dismissals (10%), and 4,787 trial verdicts (10%), and 893 other dispositions (2%). This breakdown is similar to that of previous years.

Criminal Courts of Limited Jurisdiction

Criminal Court of the City of New York: There were 259,636 arrest-case dockets filed in the Criminal Court

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[1] All data in this chapter are from the Caseload Activity Reporting System of the Unified Court System. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrator of the Courts (22 NYCRR 115).

[2] Excludes Town and Village Courts. An estimated additional two million cases were filed and disposed in these courts in 1984 (data not yet available).

[3] "Cases" are a count of "defendant-indictments," i.e., each defendant on each indictment counts as one case.

Table 2
FILINGS AND DISPOSITIONS IN THE TRIAL COURTS
1984

Court	*Filings*	*Dispositions*
CRIMINAL:		
Supreme and County Courts	49,191	50,354
Criminal Court of the City of New York:		
Arrest Cases	259,636	244,380
Summons Cases	184,600	178,711
City and District Courts outside New York City:		
Arrest Cases	261,749	200,142
Motor Vehicle Cases	499,808[a]	499,808
CRIMINAL SUBTOTAL	1,254,984	1,173,395
CIVIL:		
Supreme Court	66,111	71,575
Supreme Court--Uncontested Matrimonial Cases	57,952	59,089
Civil Court of the City of New York:		
Civil Actions	47,632	30,092[d]
Civil Actions--Default Judgments	153,667[b]	153,667
Small Claims Cases	52,065	56,286
Landlord/Tenant Summary Proceedings	138,105	134,734
Landlord/Tenant Summary Proceedings--Default Judgments	124,905[b]	124,905
Landlord/Tenant Actions and Special Proceedings	9,426	10,893
City and District Courts outside New York City:		
Civil Actions and Summary Proceedings	64,858[c]	63,056[d]
Small Claims Cases	47,887	45,921
County Courts	2,250	2,892
Court of Claims	1,678	1,346
Arbitration Program	15,927[e]	16,061
Small Claims Assessment Review Program	1,504	1,692
CIVIL SUBTOTAL	768,040	772,209
FAMILY	385,035	380,762
SURROGATE'S	118,958	177,099[f]
TOTAL	2,527,017	2,503,465

[a] The disposition figure is used as intake. Intake data are not available for fine payments processed in clerks' offices.

[b] The disposition figure is used as intake. This is the number of cases filed in which there was no answer, but in which a default judgment was entered. These cases were not calendared.

[c] Includes 1,163 noncalendared cases that were referred to the Arbitration Program.

[d] Does not include dispositions in the Arbitration Program.

[e] Shown here for reference only and not included in totals. Recorded as intake in the civil courts listed immediately above.

[f] Surrogate's Court dispositions include orders signed, decrees signed, and letters issued.

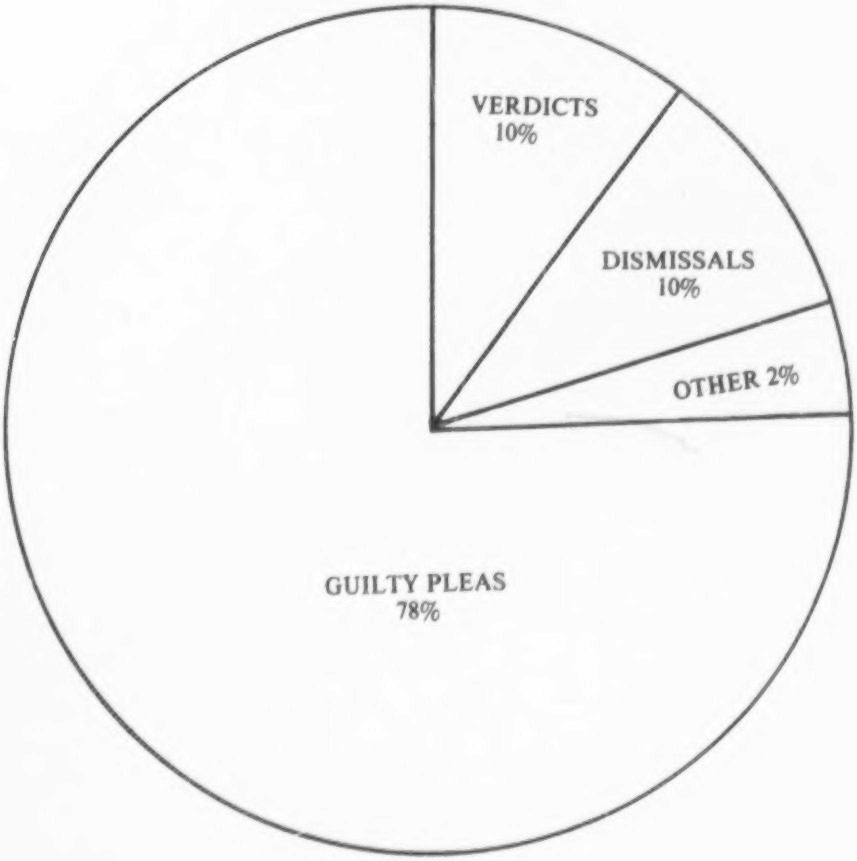
Table 3
DEFENDANT-INDICTMENTS FILED AND DISPOSED AND TRIALS COMMENCED BY JUDICIAL DISTRICT
1984

Judicial District	*Filings*	*Dispositions*	*Trials Commenced*
New York City:			
1st	10,389	11,220	1,181
2nd	8,309	8,019	861
11th	5,817	5,558	699
12th	5,014	5,482	684
Subtotal	(29,529)	(30,279)	(3,425)
Outside New York City:			
3rd	1,240	1,267	165
4th	1,255	1,250	76
5th	2,154	2,103	139
6th	1,464	1,540	127
7th	2,119	2,246	300
8th	2,917	2,812	310
9th	2,988	3,331	375
10th-Nassau	2,287	2,427	194
10th-Suffolk	3,238	3,099	185
Subtotal	(19,662)	(20,075)	(1,871)
Statewide Total	49,191	50,354	5,296

Table 4
DEFENDANT-INDICTMENTS FILED AND DISPOSED AND TRIALS COMMENCED: TOP COUNTIES BY VOLUME
(400 or More Filings or Dispositions, 40 or More Trials)
1984

	County	*Filings*	*County*	*Dispositions*	*County*	*Trials Commenced*
	New York	10,389	New York	11,220	New York	1,181
	Kings	7,970	Kings	7,661	Kings	833
	Queens	5,817	Queens	5,558	Queens	699
Top	Bronx	5,014	Bronx	5,482	Bronx	684
	Suffolk	3,238	Suffolk	3,099	Westchester	300
Ten	Nassau	2,287	Nassau	2,427	Monroe	233
	Erie	1,706	Westchester	1,880	Erie	209
	Westchester	1,643	Erie	1,670	Nassau	194
	Monroe	1,197	Monroe	1,294	Suffolk	185
	Onondaga	1,190	Onondaga	1,146	Onondaga	86
	Subtotal	40,451	Subtotal	41,437	Subtotal	4,604
	(82% of statewide 1984 filings)		(82% of statewide 1984 dispositions)		(87% of statewide 1984 trials commenced)	
	Orange	487	Orange	554	Albany	78
	Broome	469	Broome	474		
	Albany	442	Oneida	453		
	Rockland	429	Albany	440		
	Oneida	427	Rockland	435		
	Niagara	421				
	Total	43,126	Total	43,793	Total	4,682
	(88% of statewide 1984 filings)		(87% of statewide 1984 dispositions)		(88% of statewide 1984 trials commenced)	

Figure 3
FELONY DISPOSITIONS
BY TYPE OF DISPOSITION
1984



of the City of New York in 1984. There were 244,380 dispositions in this period. These figures were increases of 8% in filings and 5% in dispositions compared with 1983.

Of the dispositions, 52% were by guilty plea, 29% by dismissal, 12% by referral to grand jury or transfers to Supreme Court for waiver of indictment, less than one-half of 1% by verdict, and 7% were other dispositions. This distribution is nearly identical to that of 1983.

There were 184,600 summonses added to the calendar. (In addition, 421,053 summonses were filed to which defendants did not respond.) There were 178,711 dispositions. Both intake and disposition figures include a small number of cases handled by mail.[4]

City and District Courts outside New York City: Criminal-case intake in the City Courts and the District Courts (Nassau and Suffolk) was 261,749 in 1984. There were 200,142 dispositions. Of the dispositions, 58% were by guilty plea, 37% by dismissal, 3% by referral to grand jury, 1% by trial verdict, and 1% by other means. The corresponding 1983 breakdown was nearly identical.

In addition, 499,808 motor-vehicle matters were disposed in the City and District Courts in 1984.

Figure 4 shows criminal caseload activity in the courts of limited jurisdiction.

Table 5 shows 1984 criminal-case intake in the highest volume City and District Courts (Criminal Court of the City of New York excluded). Suffolk District Court ranked first, with 96,055 arraignments. Nassau District Court was second, with 52,411. The ten highest-volume City and District Courts accounted for 80% of all criminal-case intake in 1984 in the courts of limited jurisdiction outside of New York City.

[4] In New York City, most motor-vehicle summonses and summonses for certain violations of environmental laws are returnable to administrative agencies outside of the Unified Court System.

Figure 4
CRIMINAL CASES IN TRIAL COURTS OF LIMITED JURISDICTION
1984

Criminal Court of the City of New York

Arrest Cases	
Intake[a]	259,636
Dispositions	244,380

Summons Cases	
Intake[b]	184,600
Dispositions	178,711

City and District Courts outside New York City

Criminal Cases	
Intake	261,749
Dispositions	200,142

Motor-Vehicle Cases[c]	
Dispositions	499,808

[a] Of the 259,636 docket number filed, there were 237,463 arraignments. Bench warrants issued on desk appearance tickets many of which were subsequently returned to court, account for the difference between the two figures.

[b] This is the sum of 172,883 arraignments plus 11,717 mailed-in pleas, most of which were guilty pleas and included fine payments.

[c] Intake is not shown because data are not available for fine payments (by mail or personal appearance) processed in clerks' offices.

Table 5
CRIMINAL-CASE INTAKE IN THE TEN HIGHEST VOLUME CITY AND DISTRICT COURTS OUTSIDE NEW YORK CITY
1984

Court	*Intake*	
Suffolk District Court	96,055	
Nassau District Court	52,411	
Buffalo City Court	22,416	
Rochester City Court	13,130	
Yonkers City Court	6,369	
Syracuse City Court	5,105	
Albany Police Court	4,850	
Mount Vernon City Court	3,077	
New Rochelle City Court	2,804	
Poughkeepsie City Court	2,787	
Total	209,004	(80% of Statewide Criminal-Case Intake in City and District Courts outside New York City)

2.3 Civil Cases

Civil cases are processed in the trial courts as follows. The Supreme Court hears cases involving damages claimed above the financial limits of the courts of limited jurisdiction and also hears matrimonial, tax certiorari, condemnation, and other cases. The courts of limited jurisdiction are the Civil Court of the City of New York; District Courts of Nassau and Suffolk; City, Town and Village Courts outside of New York City; and County Courts. These courts hear cases involving damages claimed of $25,000 or less, as well as landlord/tenant, housing code enforcement, and other matters, including cases transferred from Supreme Court pursuant to CPLR section 325(d). The jurisdictional limit in the City and District Courts outside of New York City is $15,000 and the County Courts hear cases involving damages to a maximum of $25,000. Thirty-one counties operate a mandatory Arbitration Program for cases involving $6,000 or less.

The Court of Claims, which is a "specialized" (not a "limited") jurisdiction court, hears civil cases involving claims against the State of New York.

Table 6
CIVIL CASES FILED AND DISPOSED AND TRIALS COMMENCED IN SUPREME COURT BY JUDICIAL DISTRICT[a]
1984

Judicial District	*Filings*	*Dispositions*	*Trials Commenced*
New York City:			
1st	9,497	12,011	1,814
2nd	8,442	9,243	1,600
11th	5,347	5,760	1,100
12th	3,826	4,123	290
Subtotal	(27,112)	(31,137)	(4,804)
Outside New York City:			
3rd	2,535	2,699	596
4th	1,678	1,865	481
5th	2,829	2,752	903
6th	1,218	1,214	334
7th	2,618	2,702	1,403
8th	4,389	4,686	341
9th	6,452	7,185	1,015
10th-Nassau	11,101	11,206	1,757
10th-Suffolk	6,179	6,129	1,786
Subtotal	(38,999)	(40,438)	(8,616)
Statewide Total	66,111	71,575	13,420

[a] Excludes uncontested matrimonial cases. There were 57,952 filed and 59,089 disposed in 1984.

Civil Terms of Supreme Court

Filings: Statewide, 66,111 new civil cases were filed in 1984 (not including uncontested matrimonial cases), a 3% decrease from the 68,129 new filings in 1983.[5] [6]

Table 6 shows a breakdown by judicial district. The greatest rates of increase were in the 1st and 7th JDs. In the 1st JD (New York County), filings increased 12% to 9,497 in 1984 from 8,444 in 1983. In the 7th JD (Monroe and surrounding counties), filings increased 9% to 2,618 from 1983 to 1984.

Table 7 shows individual counties with 500 or more civil-case filings or dispositions. Seventeen of the sixty-two counties accounted for 90% of all new filings. Nassau ranked first with 11,101. New York, Kings, Suffolk, and Queens followed. This order was unchanged from 1983.

Figure 5 shows statewide civil-case filings in Supreme Court by case type. Motor-vehicle torts accounted for 26% of all filings. All torts, including medical malpractice, accounted for 54%. Fifteen percent of filings were contested matrimonials and 9% were tax certiorari plus a handful of condemnation cases.

Dispositions: Statewide, there were 71,575 dispositions in 1984 (not including uncontested matrimonial cases).[7] This was a 3% increase from the 69,446 dispositions in 1983. Dispositions in the Supreme Courts in New York City were up by 17% over 1983, to 31,137 cases.

Table 6 shows dispositions by judicial district. Sharp increases occurred in several districts compared with 1983. These included increases of 39% in the 1st JD (New York County), 14% in the 2nd JD (Kings and Richmond), 16% in the 3rd JD (Albany and surrounding counties), 13% in the 12th JD (Bronx), 10% in the 8th JD (Erie and surrounding counties), and 9% in the 7th JD (Monroe and surrounding counties).

The increase in New York County made it the highest disposition county; it ranked second in 1983. As shown in Table 7, the nineteen counties with more than 500 dispositions accounted for 92% of civil-case dispositions statewide.

Table 6 shows that 13,420 civil-case trials were commenced in 1984. There were 5,284 jury trials (39%) and 8,136 nonjury trials(61%).

Civil Courts of Limited Jurisdiction

Civil Court of the City of New York: Calendared intake totaled 47,632 cases and calendared dispositions totaled 30,092 on the civil-action calendar in 1984. An additional 9,032 cases were removed from civil-action calendars for processing in the Arbitration Program. Default judgments were entered in the clerks' offices on 153,667 summonses.

A total of 52,065 small-claims were filed in 1984. There were 56,286 dispositions.

There were calendared intake of 138,105 summary proceedings and 134,734 calendared dispositions. Of the notices of petition not answered, 124,905 default judgments were entered in the clerk's offices.

Other landlord/tenant actions and proceedings consisted primarily of housing code enforcement matters. There were 9,426 additions to the calendar and 10,893 dispositions.

City and District Courts outside New York City: In 1984, 63,695 civil cases and summary proceedings were added to the calendar. Another 1,163 cases were transferred to Arbitration before being added to the civil-action calendar. There were 63,056 dispositions in this category, excluding transfers to the Arbitration Program. there were 3,613 transfers to the Arbitration Program after conferencing.

There were 47,887 small-claims calendared and 45,921 disposed.

County Courts: Civil actions added to the calendar in 1984 totaled 2,250; 2,829 were disposed in 1984.

Court of Claims: Intake totaled 1,678 in 1984. There were 1,346 dispositions.

Arbitration Program: Thirty-one counties operate a mandatory Arbitration Program for cases involving damages claimed of $6,000 or less. Statewide, 15,927 cases were received for arbitration in 1984. There were 16,061 dispositions in 1984, with 2,011 demands for trial *de novo*, a rate of 13%.

See Figure 6 for civil-case activity in the courts of limited jurisdiction. Table 8, following this figure, shows details of the Arbitration Program by county.

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[5] A case is defined as commencing with the filing of a trial note of issue. Approximately 300,000 civil-case index numbers were issued by County Clerks statewide in 1984, many of which are settled, withdrawn, or dismissed prior to the filing of a note of issue. The principal court caseload activity for these matters results from pre-note motion practice.

[6] There were an additional 57,952 uncontested matrimonial cases filed in the Supreme Courts in 1984.

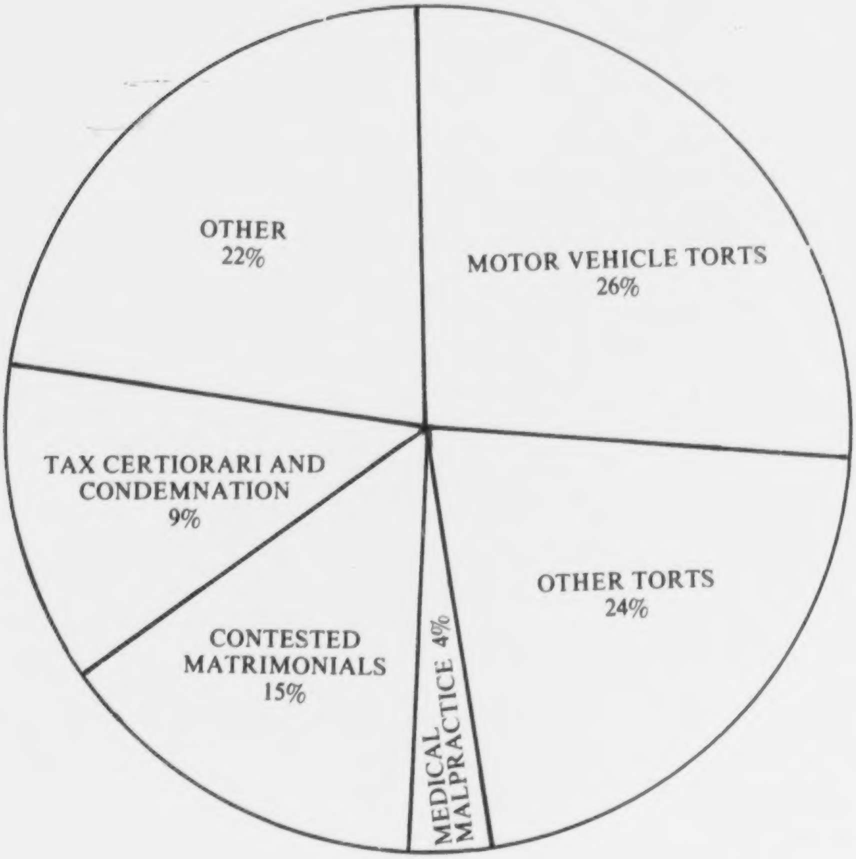
[7] There were an additional 59,089 uncontested matrimonial cases disposed in the Supreme Courts in 1984.

Table 7
CIVIL CASES FILED AND DISPOSED AND TRIALS COMMENCED IN SUPREME COURT: TOP COUNTIES BY VOLUME
(500 or More Filings or Dispositions, 100 or More Trials)*
1984

	County	*Filings*	*County*	*Dispositions*	*County*	*Trials Commenced*
	Nassau	11,101	New York	12,011	New York	1,814
	New York	9,497	Nassau	11,206	Suffolk	1,786
	Kings	7,351	Kings	8,132	Nassau	1,757
Top	Suffolk	6,179	Suffolk	6,129	Kings	1,446
	Queens	5,347	Queens	5,760	Monroe	1,190
Ten	Bronx	3,826	Bronx	4,123	Queens	1,100
	Westchester	3,573	Westchester	3,794	Westchester	506
	Erie	3,328	Erie	3,508	Ononondaga	411
	Monroe	1,748	Monroe	1,889	Bronx	290
	Onondaga	1,500	Orange	1,386	Oneida	270
	Subtotal	53,450	Subtotal	57,938	Subtotal	10,570
	(81% of statewide 1984 filings)		(81% of statewide 1984 dispositions)		(79% of statewide 1984 trials commenced)	
	Albany	1,203	Onondaga	1,288	Erie	229
	Richmond	1,091	Albany	1,165	Orange	217
	Orange	1,061	Richmond	1,111	Albany	195
	Rockland	878	Rockland	1,017	Ulster	172
	Dutchess	736	Oneida	762	Richmond	154
	Oneida	721	Dutchess	747	Schenectady	144
	Schenectady	543	Schenectady	617	Rockland	126
			Ulster	617	Saratoga	120
			Niagara	529	Dutchess	118
					Oswego	113
	Total	59,683	Total	65,791	Total	12,158
	(90% of statewide 1984 filings)		(92% of statewide 1984 dispositions)		(91% of statewide 1984 trials commenced)	

* Excludes uncontested matrimonial cases.

Figure 5
CIVIL CASES FILED IN SUPREME COURT
BY CASE TYPE[a]
1984



[a] Excludes uncontested matrimonial cases.

Figure 6
CIVIL CASES IN TRIAL COURTS OF LIMITED JURISDICTION
1984

Civil Court of the City of New York

Landlord/Tenant Cases	
Summary Proceedings:	
Intake[a]	138,105
Dispositions	134,734
Other Actions & Proceedings:	
Intake	9,426
Dispositions	10,893

Civil Cases	
Intake[b]	47,632
Dispositions[c]	30,092

Small Claims Cases	
Intake	52,065
Dispositions	56,286

City and District Courts outside New York City

Civil Cases and Summary Proceedings	
Intake[d]	64,858
Dispositions[e]	63,056

Small Claims Cases	
Intake	47,887
Dispositions	45,921

County Courts

Intake	2,250
Dispositions	2,892

Court of Claims

Intake	1,678
Dispositions	1,346

Arbitration Program

Intake	15,927
Dispositions	16,061

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[a] Default judgments were entered in the clerks' offices in an additional 124,905 actions.

[b] Default judgments were entered in the clerks' offices in an additional 153,667 actions.

[c] Does not include 9,032 referrals to Arbitration Program.

[d] Includes 1,163 noncalendared transfers to Arbitration Program.

[e] Does not include 4,766 referrals to Arbitration Program.

Table 8
INTAKE, DISPOSITIONS, AND TRIALS *DE NOVO* IN ARBITRATION PROGRAM
1984

County	*Intake*	*Dispositions*	*Demands for Trial de Novo*	*De Novo Rate*
1st Judicial District:				
New York	4,117	4,423	771	17%
2nd Judicial District:				
Kings	1,940	1,956	359	18%
3rd Judicial District:				
Albany	97	55	2	4%
Rensselaer	33	45	5	11%
Ulster	93	58	2	3%
4th Judicial District:				
Schenectady	67	58	6	10%
5th Judicial District:				
Oneida	116	93	3	3%
Onondaga	337	316	45	14%
6th Judicial District:				
Broome	109	102	4	4%
Chemung	9	9	0	-0-
Schuyler	3	3	0	-0-
Tompkins	34	38	7	18%
7th Judicial District:				
Cayuga	14	13	0	-0-
Livingston	18	15	0	-0-
Monroe	614	493	75	15%
Ontario	23	19	1	5%
Seneca	7	4	0	-0-
Steuben	18	17	2	12%
Wayne	12	12	0	-0-
Yates	6	8	0	-0-
8th Judicial District:				
Erie	462	443	30	7%
Niagara	129	108	6	6%
9th Judicial District:				
Dutchess	100	108	6	6%
Orange	105	120	1	1%
Putnam	21	22	1	5%
Rockland	104	119	0	-0-
Westchester	559	527	30	6%
10th Judicial District:				
Nassau	2,116	2,114	68	3%
Suffolk	1,689	1,661	97	6%
11th Judicial District:				
Queens	2,158	2,268	402	18%
12th Judicial District:				
Bronx	817	834	88	11%
Statewide Total	15,927	16,061	2,011	13%

Small Claims Assessment Review Program

New York State law provides that owners of a one-, two-, or three-family owner-occupied residence can appeal their real property assessments. When an individual is not satisfied with the outcome of an appeal to the local Board of Assessment review, he or she may file a petition for hearing in Supreme Court.

In 1984, there were 1,504 petitions filed and 1,692 dispositions. Table 9 shows data for each judicial district.

Table 9
SMALL CLAIMS ASSESSMENT REVIEW FILINGS AND DISPOSITIONS BY JUDICIAL DISTRICT
1984

Judicial District	*Filings*	*Dispositions*
New York City:		
1st	0	0
2nd	22	22
11th	9	12
12th	1	0
Subtotal	(32)	(34)
Outside New York City:		
3rd	106	233
4th	108	107
5th	329	318
6th	85	100
7th	149	151
8th	242	249
9th	159	155
10th	294	345
Subtotal	(1,472)	(1,658)
Statewide Total	1,504	1,692

2.4 Family Court

The Family Courts reported intake of 385,035 petitions in 1984. Of these petitions, 115,626 (30%) were reported in New York City. The remaining 269,409 (70%) were reported outside of New York City.

There were 380,762 petitions disposed in 1984. The total in New York City was 118,868 (31%); outside of New York City, the total was 261,894 (69%).

New York State law requires the Chief Administrator of the Courts to report to the State Legislature highly detailed data regarding the nature and outcome of petitions for juvenile delinquency, persons in need of supervision, child protective proceedings, and family offense proceedings. See Appendix 2.

2.5 Surrogate's Court

In 1984, there were 118,958 petitions filed, which includes affidavits filed in small estate matters. Surrogate's Court dispositions in 1984 totaled 177,099, including orders signed, decrees signed, and letters issued. See Table 10.

2.6 Appellate Courts

Tables 11, 12, 13, and 14 show 1984 caseload activity in the appellate courts (excluding County Courts acting as appellate courts, for which caseload activity data are not currently available).

2.7 Community Dispute Resolution Centers Program

Chapter 847 of the Laws of 1981 created the Community Dispute Resolution Centers Program. These centers have provided an alternative to court for the resolution of disputes, both criminal and civil.

Case intake in each center includes walk-in clients and referrals from courts and other agencies. Dispositions include cases conciliated without mediation, cases mediated, and cases arbitrated. Certain cases are determined to be inappropriate for mediation and are referred to other agencies.

In fiscal year 1983-84, there were 69,092 cases received and 14,652 dispositions. Nearly 80% of the cases received were referred elsewhere. Table 14 shows the breakdown of intake and dispositions for each center.[8]

2.8 Standards and Goals

Since 1975, Standards and Goals of the Chief Administrator of the Courts have provided performance measures for the courts for elapsed time to disposition for felony cases in the Supreme and County Courts, civil cases in the Supreme Courts, and for proceedings in the Family Courts.[9]

Felony Cases: The applicable standard is disposition within six months from filing of indictment, excluding periods when a case is not within the active management control of the court(e.g., warrant outstanding).

During 1984, 74% of felony case dispositions statewide were achieved within the six-month standard.

Civil Cases: The standard is disposition within fifteen months of the filing of a note of issue. During 1984, 74% of civil case dispositions statewide were achieved within this standard.

Family Court: The standard is case disposition within 180 days of the commencement of a proceeding, excluding periods when a case is not within the active management control of the court (e.g., warrant outstanding). During 1984, 97% of all dispositions were reached within the standard.

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[8] See the program's annual report for full details of caseload activity.

[9] See "Standards and Goals," memorandum of the Chief Administrator of the Courts of 2/28/79, containing revisions approved by the Administrative Board of the Courts on 1/25/79 to the Standards and Goals adopted in 1975.

Table 10
CASELOAD ACTIVITY IN SURROGATES' COURTS
STATEWIDE
1984

Number of Proceedings By Case Type	Petitions Filed	Citations (Returnable)	Motions Order to Show Cause Filed	Guard. Ad Litem Appt'd	Answers Objections Filed	Bonds		Trial Notes of Issue Filed	Orders Signed	Decrees Signed	Letters Issued	Misc.
						Filed	Dispensed With					
Probate	39,572	11,524	762	3,311	590	936	7,749	134	14,915	36,927	38,256	9,051
Administration	14,407	1,627	113	278	112	3,225	5,276	13	2,433	11,275	12,266	2,389
Accountings	5,987											
Informal Accountings	(7,185)	4,556	371	1,647	630	133	609	59	3,432	5,594		25,705
Miscellaneous	6,882	1,365	586	408	265	290	360	40	6,249	1,923		1,422
Guardianship	14,044	1,000	134	479	33	91	1,670	5	8,167	6,594	6,512	722
Adoption	3,101	803	67	261	46			24	4,212		1,988	688
Estate Tax	15,836		404		7				16,356			1,678
Total (1-8)	107,014	20,875	2,437	6,384	1,683	4,675	15,664	275	55,764	62,313	59,022	41,655

Surrogate and Law Department:

Number of Hearings Commenced by Surrogate	7,885
Number of Trials Commenced by Surrogate	1,284
Number of Conferences and Hearings	41,674
Number of Conferences on Legal Matters Commenced by Chief Clerk and Deputy Chief Clerk	31,823
Number of Examinations Held	3,157
Number of Written Decisions	12,720
Number of Opinions and Memoranda Issued	10,738

Small Estates:

Number of Affidavits Filed	11,944
Number of Answers/Objections Filed	82
Number of Accountings Filed	2,613

Other:

Number of Certificates Issued	489,075
Number of Annual Guardianship Accountings	45,841
Number of Wills Filed for Safekeeping	12,671
Number of Files Requisitioned	470,586
Number of Pages Certified	115,585
Number of Exemplifications	2,254
Number of Searches Completed	6,574
Number of Witnesses Examined by Clerk	7,262

Table 11
CASELOAD ACTIVITY IN THE COURT OF APPEALS
1984

Applications Decided (C.P.L.§460.20 (3-b))	2,281
Records on Appeal Filed	711
Oral Arguments	498
Appeals Decided	711

Table 12
DISPOSITIONS OF APPEALS DECIDED IN THE COURT OF APPEALS BY BASIS OF JURISDICTION
1984

Basis of Jurisdiction	*Affirmance*	*Reversed*	*Modified*	*Dismissed*	*Other*	*Total*
All Cases:						
Reversal, Modification, Dissent in Appellate Division	292	49	22	13	0	376
Permission of Court of Appeals or Judge thereof	66	52	10	6	1	135
Permission of Appellate Division or Justice thereof	79	54	11	5	0	149
Constitutional Question	8	2	4	0	0	14
Other	19	12	3	3	0	37
Total	464	169	50	27	1	711
Civil Cases:						
Reversal, Modification, Dissent in Appellate Division	292	49	22	12	0	375
Permission of Court of Appeals or Judge thereof	21	19	2	1	1	44
Permission of Appellate Division or Justice thereof	48	38	10	0	0	96
Constitutional Question	8	2	4	0	0	14
Other	19	11	2	3	0	35
Total	388	119	40	16	1	564
Criminal Cases:						
Reversal, Modification, Dissent in Appellate Division	0	0	0	1	0	1
Permission of Court of Appeals or Judge thereof	45	33	8	5	0	91
Permission of Appellate Division or Justice thereof	31	16	1	5	0	53
Constitutional Question	0	0	0	0	0	0
Other	0	1	1	0	0	2
Total	76	50	10	11	0	147

Table 13
CASELOAD ACTIVITY IN THE APPELLATE DIVISIONS
1984

Activity	*First Department*	*Second Department*	*Third Department*	*Fourth Department*	*Total*
Records on Appeal Filed	3,937	4,102	1,628	1,143	10,810
Motions Decided	8,462	10,204	3,958	2,752	25,376
Oral Arguments	1,564	1,615	932	1,036	5,147
Appeals Decided:[a]					
Affirmed	2,621	2,632	1,127	838	7,218
Reversed, New Trial	345	639	220	252	1,456
Modified	272	298	142	120	832
Dismissed[b]	176	224	39	15	454
Other	326	4	20	47	397
Total	3,740	3,797	1,548	1,272	10,357
Admissions to Bar:					
Men	1,137	1,650	792	324	3,903
Women	832	783	309	164	2,088
Attorney Disciplinary Proceedings:					
Charges Dismissed	0	0	0	0	0
Censures	2	6	8	0	16
Suspensions	24	27	12	4	67
Struck from Roll (Incl. Disbarments)	15	33	1	1	50
Reinstatements	8	10	3	4	25
Total	49	76	24	9	158

[a] Includes Art. 78 C.P.L.R. and Original Proceedings.

[b] Includes appeals dismissed or withdrawn before arguments or submission.

Table 14
CASELOAD ACTIVITY IN THE APPELLATE TERMS
1984

Activity	*First Department*	*Second Department*	*Total*
Source of Appeals Received:			
County Courts	0	28	28
Civil Court of the City of New York	529	399	928
Criminal Court of the City of New York	98	284	382
District Courts	0	561	561
Courts in Cities outside New York City	0	131	131
Town and Village Courts	0	313	313
Total	627	1,716	2,343
Motions Heard or Submitted	1,695	2,976	4,671
Dispositions of Appeals:			
Discontinued	24	9	33
Dismissed on Calendar Call under Rule 3 or 8 (Civil)	24	412	436
Dismissed on Calendar Call under C.P.L.§*460.70* (Criminal)	3	50	53
Remitted	1	0	1
Decided after Argument or Submission	522	746	1,298
Total	604	1,217	1,821
Decisions Rendered after Argument:			
Affirmed	329	383	712
Reversed	145	241	386
Modification	57	83	140
Dismissed, Discontinued, Withdrawn, or Remanded	21	39	60
Total	552	746	1,298
Opinions Filed	11	0	11
Per Curiam Opinions	319	707	1,026
Memoranda Written, Not Filed	233	0	233

Table 15
COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM
INTAKE AND DISPOSITIONS
FISCAL YEAR 1983 - 84

		Dispositions			
Program	*Intake*	*Concili-ations*	*Medi-ations*	*Arbi-trations*	*Total*
Albany Mediation Program	1,195	17	189	0	206
Allegany: Dispute Settlement Center	33	3	0	0	3
Broome: ACCORD	2,136	189	130	0	319
Chemung: Neighborhood Justice Project	3,557	291	62	0	353
Columbia: Common Ground	252	7	17	0	24
Dutchess: Comm. Dispute Res. Center	427	28	61	0	89
Erie: Dispute Settlement Center	3,751	210	315	12	537
Fulton/Montgomery/Schoharie Counties	142	10	11	0	21
Greene: Comm. Dispute Res. Center	110	10	4	0	14
Jefferson: Comm. Dispute Res. Center	66	3	6	0	9
Lewis Mediation Service	89	10	10	0	20
Livingston/Ontario/Wayne: Center for Dispute Settlement	225	0	97	2	99
Monroe: Center for Dispute Settlement, Inc.	1,635	4	576	85	665
Nassau: Community Dispute Center	1,855	6	119	26	151
Nassau: Mediation Alternative Project	170	22	44	0	66
NY & Bronx: IMCR Dispute Res. Center	19,306	525	3,386	249	4,160
Kings & Queens: Victim Services Agency	15,861	192	5,150	2	5,344
Richmond: Staten Island Community Dispute Center	4,036	82	365	0	447
NY: Washington Heights - Inwood Coalition	2,825	77	121	0	198
Kings: Dispute Res. Center Brooklyn College	810	23	168	0	191
Oneida: Comm. Dispute Res. Program	283	19	10	0	29
Onondaga: Resolve - A Center For Dispute Settlement, Inc.	817	117	106	0	223
Onondaga: Dispute Res. Ctr. of the Volunteer Center, Inc.	2,290	26	223	0	249
Orange: Orange Co. Mediation Project	1,078	45	158	0	203
Oswego: Resolve, Comm. Dispute Settlement	120	2	2	0	4
Otsego: Agree, Comm. Dispute Settlement	80	12	20	0	32
Rensselaer: Comm. Dispute Stlmt. Program	737	31	46	0	77
Rockland: Volunteer Mediation Center	915	16	86	0	102
Saratoga: Comm. Dispute Settlement Program	18	4	10	0	14
Schenectady: Comm. Dispute Stlmt. Program	382	11	35	1	47
Schuyler: Neighborhood Justice Project	411	14	15	0	29
Steuben: Agree, Comm. Dispute Settlement	34	4	2	0	6
Suffolk: Comm. Mediation Center, Inc.	2,496	19	514	0	533
Tompkins: Comm. Dispute Res. Center	327	12	21	0	33
Ulster: Mediation Srvcs. of Ulster Co.	338	28	30	0	58
Westchester Mediation Center	285	5	92	0	97
Total	69,092	2,074	12,201	377	14,652

Chapter 3

Education and Training Programs

Since 1962, over 30,100 judges and justices of New York State have attended seminars and training programs conducted by the Office of Court Administration. In 1984, total attendance at OCA - sponsored judicial programs reached 3,432 including 2,117 at town and village justice program. In the area of nonjudicial training, 1,100 persons attended programs sponsored or financial by OCA in 1984.

3.1 Judicial Programs for State-Paid Judges

3.1.1 1984 Judicial Seminars

August 8-12, 1984
August 15-19, 1984
Buffalo, New York

The summer Judicial Seminars were initiated in 1982 at the direction of Chief Judge Lawrence H. Cooke. After a successful first year, they were suspended in 1983 for budgetary reasons and resumed in 1984.

The 1984 seminars were again conducted at the Amherst Campus of the State University of Buffalo. Two similar week-long sessions were held for judges of all levels of State-paid trial courts. Slightly more than 800 judges attended.

As in 1982, Curriculum Development Committees, appointed by the Chief Judge, met to determine course content and to select faculty in six areas of subject matter: evidence; civil law and procedure, criminal law and procedure; family law and procedure; Surrogates' matters; and judicial skills. With the exception of four representatives from the academic world, the Committees were made up entirely of State judges.

The Committees devised a program of courses which were offered during the sessions. At any one time, the attending judges could select from any of the four to six half-day courses conducted during each seminar period. The availability of options during each seminar period again proved to be one of the most attractive aspects of the sessions--judges could select their own curricula during the week, tailored to their own interests and needs.

Another benefit of the sessions was that they provided an otherwise unavailable opportunity for judges of all levels and jurisdictions of State-paid trial courts to meet and discuss experiences and viewpoints with their colleagues from other locales and courts.

The faculty for these seminars was made up largely of judges from New York who accepted the task of developing their topics and planning their courses and presentations as an addition to their judicial duties. Law professors, former judges, practicing lawyers, and professionals from other disciplines also added their talents to the faculty.

In addition to the twenty-five seminars conducted during the seminar periods, judges participated in six additional educational opportunities each week:

—An evening discussion was conducted with members and staff of the Committee on Sentencing Guidelines to provide a progress report of the Committee's work to the judges and to receive the judge's reactions.

—A discussion of sexual bias in the courtroom was presented after dinner one night each week.

—Judges were transported to visit the Attica Correctional Facility.

—Other judges toured the Division for Youth's secure detention facility at Masten Park.

—Ten to fifteen judges were videotaped each week in mock courtroom situations and then met with a communications expert to review their judicial "style."

—All judges participated on the final morning in a plenary session dealing with the theory and practice of judicial communication in the courtroom.

The Unified Court system gratefully thanks the members of the faculty and the Curriculum Development Committees for their contributions to the 1984 Judicial Seminars and thanks the personnel of the State University of Buffalo for their gracious and efficient hosting of the sessions.

3.1.2 Curriculum Development Committees

Civil Law and Procedure

Honorable Maxine K. Duberstein
Honorable William L. Ford
Honorable Ira Gammerman
Professor Emeritus Milton Gershenson
Honorable Edward J. Greenfield
Honorable Robert A. Harlem
Honorable Irving Kirschenbaum
Honorable Harold E. Koreman
Honorable John C. Marbach
Professor David D. Siegel
Honorable Arthur Spatt
Honorable Andrew Tyler
Honorable William A. Walsh, Jr.
Honorable Robert E. White

Evidence

Honorable Matthew F. Coppola
Honorable Arnold G. Fraiman
Honorable Theodore S. Kasler
Honorable J. Roberty Lynch
Honorable William McCooe
Honorable John A. Monteleone
Honorable Richard Lee Price
Dean Emeritus Jerome Prince
Honorable Leonard H. Sandler
Honorable Andrew V. Siracuse
Honorable Thomas M. Stark

Judicial Skills

Honorable J. Raymond Amyot
Honorable George Cobb
Honorable Dennis Edwards, Jr.
Honorable Harold L. Galloway
Honorable David T. Gibbons
Honorable Nat Hentel
Honorable Abraham Isseks
Honorable Theordore A. Kelly
Honorable Sybil Hart Kooper
Honorable Richard F. Kuhnen
Honorable Leon Lazar
Honorable William Ostrowski
Honorable Seymour Schwartz
Honorable Richard W. Wallach

Criminal Law and Procedure

Professor Joseph W. Bellacosa
Honorable Alain M. Bourgeois
Honorable D. Bruce Crew, III
Honorable Theordore Dachenhausen, Jr.
Honorable Samuel L. Green
Honorable Joseph Harris
Honorable Michael Juviler
Honorable Robert P. Kennedy
Honorable Lorraine S. Miller
Honorable Burton Roberts
Honorable Ernst H. Rosenberger
Honorable Seymour Rotker
Honorable Marie G. Santagata
Honorable Alexander Vitale

Family Law and Procedure

Honorable Arthur J. Abrams
Honorable Paul Cheeseman
Honorable Patricia D. Collins
Honorable Willian J. Dempsey
Honorable Leon Deutsch
Honorable Mary Ann Killeen
Honorable Edward J. McLaughlin
Honorable M. Holt Meyer
Honorable Adrienne H. Scancarelli
Honorable Jack Turret
Honorable Charles Willis
Honorable Ruth Jane Zuckerman

Surrogates' Matters

Professor Joseph T. Arenson (Faculty Coordinator)
Honorable Willard W. Cass, Jr.
Honorable Bertram R. Gelfand
Honorable Irving Goldman
Honorable Edward M. Horey
Honorable John Keane
Honorable Louis D. Laurino
Honorable C. Raymond Radigan
Honorable Bernard L. Reagan

3.1.3 Seminar Topics

The Nature of Hearsay and Selected Exceptions to the Hearsay Rule (two-session course)

Selected Recent Problems in Evidence in Civil Cases

Selected Problems for a Criminal Trial judge (three-session course)

Recent Developments in Criminal Law (two-session course)

The Trial of a Medical Malpractice Case

Equitable Distribution

Selected Problems in Civil Procedure

Liability for Defectively Designed Products

Recent Developments in the Law of Torts

Family Court Case Law and Legislation Review

Litigation in the Surrogate's Court (two-session course)

Guardianships, Conservatorships and Committeeships

Joint Bank Accounts and Totten Trusts in New York

Structured Settlements in Wrongful Death Actions

Techniques of Conducting a Trial

Coping with Judicial Stress

Victims and Witnesses: The Judge's Role

Judicial Ethics and Judicial Images

Techniques of Settling Civil Cases

Effective Judicial Writing

Communication in the Courtroom (Plenary session)

3.1.1.4 Faculty

Honorable Morris Aarons
Professor Joseph T. Arenson
Honorable Vincent R. Balletta, Jr.
Associate Dean Robert A. Barker
Sheila L. Birnbaum, Esq.
Paul I. Birzon, Esq.
Honorable Arthur E. Blyn
Honorable David O. Boehm
Honorable Seymour Boyers
Honorable Gene L. Catena
Terrence M. Connors, Esq.
Honorable Robert W. Coutant
Honorable D. Bruce Crew, III
Honorable Maxine K. Duberstein
Joan L. Ellenbogen, Esq.
Honorable Betty W. Ellerin
Honorable Lawrence J. Finnegan, Jr.
Honorable Betty D. Friedlander
Honorable Jeffry H. Gallet
Honorable Ira Gammerman
Honorable Bertram R. Gelfand
Professor Emeritus Milton G. Gershenson
Sharon Stern Gerstman, Esq.
Carl A. Green, Esq.
Honorable Samuel L. Green
Honorable Edward J. Greenfield
Honorable Raymond Harrington
Honorable Nat H. Hentel
Mrs. Arlene Jacobi
Professor Kenneth Joyce
Honorable Michael R. Juviler
Honorable John M. Keane
Honorable Robert P. Kennedy
Honorable Marie M. Lambert
Honorable Louis D. Laurino
Honorable Howard E. Levitt
Honorable Thomas J. Lowery, Jr.
Philip H. Magner, Jr., Esq.
Honorable John C. Marbach
Professor Michael M. Martin
Honorable Joseph P. McCarthy
Honorable William P. McCooe
Honorable Millard L. Midonick
Honorable Joseph D. Mintz
Honorable Milton Mollen
Honorable Patrick D. Monserrate
Honorable John A. Monteleone
Honorable Peter J. Notaro
Professor Peter J. O'Connor
Robert M. Pitler, Esq.
Professor Peter Preiser
Dean Emeritus Jerome Prince
Honorable Raymond C. Radigan
Honorable Bernard L. Reagan
Paul D. Rheingold, Esq.
Daniel T. Roach, Esq.
Honorable Ernst H. Rosenberger
Honorable Albert M. Rosenblatt
Honorable Marie G. Santagata
Honorable David B. Saxe
Lynn Hecht Schafran, Esq.
Honorable George E. Severson
Professor David D. Siegel
Honorable Stanley L. Sklar
Honorable Arthur D. Spatt
Honorable Thomas M. Stark
Honorable Norman A. Stiller
Honorable Donald J. Sullivan
Honorable Joseph P. Sullivan
Honorable Richard W. Wallach
Peter J. Walsh, Esq.
Honorable Milton L. Williams
Honorable Paul J. Yesawich, Jr.
Dr. Marlene A. Young
Professor Gordon I. Zimmerman
Isaiah M. Zimmerman, Ph. D.

3.1.2 Alternative Sentencing Seminars

A series of four seminars on alternatives in sentencing, entitled "Sentencing Options: Punishing the Nonviolent Offender" were conducted jointly by the Office of Court Administration and the National Institute for Sentencing Alternatives. The first two sessions were conducted on March 2 and April 6, 1984, at facilities graciously provided by the Brooklyn Law School. A third session was conducted on May 18 at Hofstra University in Hempstead, and a fourth on June 1 in Syracuse. More than 450 State-paid judges attended.

The programs were all similar in their structure, but varied in specific content to address programs germane to the particular geographic area.

Each program provided a conceptual framework for sentencing options, a discussion of the New York statutes directly applicable, and presentations from individual judges describing their experiences with the use of such alternatives to fines and jail as restitution and community service. The National Institute of Sentencing Alternatives and its Director, Mark D. Corrigan, were instrumental in designing the programs and providing faculty.

3.1.3 Orientation Seminar for New Judges.

December 2-6, 1984
New York City

The annual Orientation Program for Newly-Elected and Newly-Appointed Judges was held on December 2 to 6, 1984 in New York City. Fifty-four new judges attended this week-long program, which consisted of lectures on evidence, the trial judge's role, the New York State Employees Retirement System, criminal procedure, the Bench Book for Trial Judges, civil law and procedure, the administration of jurors, the role of the court reporter, inter-court relations and administrative structure, substantive criminal law, pattern jury instructions, judicial conduct, courts and the community and public perceptions, and equitable distribution. A special session was added in 1984 for new Family Court Judges.

3.1.4 Other Judicial Programs

In addition to the programs described above, various courts, districts, and judicial departments conducted educational sessions for their sitting judges and orientation programs for their new judges in 1984. Judicial associations, at their annual meetings, also provided substantial educational programs for their members.

3.2 Town and Village Justice Training Programs

There are approximately 2300 town and village justice positions in New York State. Because of vacancies and because some judges hold more than one position, approximately 2050 individuals hold the office of town and village justice. Roughly eighty percent of these are not admitted to practice law in the State. New justices who are not attorneys are required to successfully complete a six day Basic Certification Course covering the fundamentals of law and their responsibilities as judges. The Basic Course was presented once in Canton and twice each in Albany, Syracuse and Buffalo in 1984. A total of 122 judges attended.

A major innovation in 1984 was the implementation of an expanded Advanced Course for all town and village justices, whether lawyer or non-lawyer. Prior to 1984, only non-lawyer justices were required to attend the Advanced Course, and they were required to attend only once each term of office, which usually meant every four years.

The Advanced Course consists of two days of instruction covering selected legal topics. The curriculum in 1984 included an examination of a driving while intoxicated case from arrest through sentencing; judicial conduct; small claims; summary proceedings; civil procedure; recordkeeping and reporting; and new legislation.

To make the Advanced Course more accessible to the attending justices, the number of locations in which it was presented was increased from the seven locations used in 1983 to thirty-one locations in 1984. Nearly 130 judges, attorneys, court clerks, and administrative personnel enlisted to act as faculty and to administer the expanded schedule. Faculty were trained in two sessions conducted in Syracuse. By the end of the year, justices representing 2,229 local judicial positions had attended the new Advanced Course.

The Unified Court System is grateful to all of those who provided their time, energy and skill in successfully establishing this major expansion, and particularly to the senior faculty members, the Honorable Eugene W. Salisbury, the Honorable Duncan S. MacAffer, and the Honorable John J. Elliott for their efforts in training the expanded faculty as well as for their continuing coordination of the Basic Courses.

3.3 Nonjudicial Programs

Programs presented or sponsored by the Office of Court Administration were attended by 1,100 employees at all levels of trial courts in 1984. All of the annual seminars for particular groups of court personnel were preceded by planning meetings where representatives of the target populations discussed their needs and proposed topics and faculty.

Commissioners of Jurors Annual Seminar

April 10-13, 1984

In an exceptionally well-attended seminar, seventy-one participants from fifty-six counties participated. The major topics were: "What the Future Holds for Jury Commissioners and the Jury System", "Legal Intretretation and Clarification of Jury Laws", "Pending and Proposed Legislation", "Economies in Jury Service and Utilization", and a report from the Advisory Commitee on Jury Management. An open session was held on all other matters of concern to the Commissioners.

The trend in increased attendance is credited to the increased interest on the part of all the Commissioners in improved juror utilization at a time of rising costs and the availability of systems that will give them greater control and flexibility in the area of juror management. As in previous seminars, the presentations were in large part led by Commissionsers who had pioneered and installed new methodologies and by their supporting components in OCA's Office of Management Support. The seminar met in Ellenville, New York.

Law Librarians Annual Seminar

April 30-May 2, 1984

The newest group to begin conducting statewide annual seminars grew to forty-three participants plus faculty in its third year. A wide variety of topics drew them to Rensslaerville, New York.

Starting with "Unified Court Library System Objectives", participants attended workshops on the "New York State Library Services, Resources and Procedures", a progress report on the automation of the Library Purchase Plan, a briefing on "The Preparation of 1984-85 Budget Plans", a panel discussion on "Financial Record Keeping", a workshop on library statistics, a talk on "New York State Archives: Early Court Records, Issues Faced by Law Librarians", another talk on coordinated collection development, a joint presentation on "Library Loans", and a workshop on microforms.

The diverse range of topics is indicative of the needs of a relatively new seminar group seeking knowledge of the best practices already in use in some places in the system or likely to be introduced in the near future. Continued growth in the number of participants is anticipated for the next two or three years.

Surrogates' Law Association Seminar

June 13-15, 1984

The target population for this seminar is attorneys who work in the Surrogates' Courts. These, and a number of Chief Clerks who]are not attorneys but who are particularly knowledgeable in matters of law, use this seminar to discuss significant trends and major cases in the Surrogates' Court.

The learning dynamic consisted mostly of case discussions led by members of the Association who wished to present cases to the group. Matters for discussion at the seminar were submitted by members to the seminar planning committee, which screened them for the broadest impact and applicability. In addition to the case discussions, several distinguished Surrogates were invited to make presentations on particular legal topics.

A booklet summarizing the key cases and issues under discussion was produced so that participants could prepare for the discussions and lectures. The 1984 seminar met at Ellenville, New York, and was attended by sixty participants.

Supreme and County Clerks Annual Seminar

July 17-19, 1984

This group marked its twenty-sixth year of consecutive annual seminars by meeting at Kiamesha Lake, New York, with eighty participants representing almost every county in the State. Programs on the Essentials of Time Management and Principles of Stress Management were offered to early arrivers before the beginning of the formal program. Once under way, the principal topic was the use of microcomputers in the Supreme and County Courts. Presentations, question-and-answer periods, "hands-on" demonstrations and the tailoring of applicants to each represented court consumed more than two-thirds of the seminar time. The faculty was recruited from the courts and from the Office of Management Support.

Other topics were an update on legislation just passed by the legislature and a forum where questions on court operations, law, procedures, and management practices were fielded.

Chief Clerks of Surrogates Courts Annual Seminar

September 12-14, 1984

A meeting of the committee on the Surrogate Court Clerks Procedures Manual provided an early start to a seminar offering a diverse number of topics. New legislation affecting the Surrogates' Courts and a discussion on administrative problems opened the plenary sessions. Other topics shared by the sixty-three attendees representing fifty-six counties were the report of the

Procedures Manual Committee, uniform rules, and the new adoption registry.

The main focus of the seminar was on the use of microcomputers and microphotography in the courts. A full day was spent on the relative advantages of different pieces of hardware and software, along with demonstrations by experienced court and administrative personnel and ample "hands-on" time for the seminar participants.

The program was held in Ellenville, New York.

Family Court Clerks Annual Seminar

September 24-26, 1984

The thirty-second annual seminar of the New York State Association of Family Court Clerks brought seventy-eight participants to Swan Lake, New York.

The major topic at the seminar was "Computers for Family Courts." Members of the Association and staff from the Office of Management Support presented this topic in both the intellectual and "hands-on" modes. Additional topics presented included microphotography applications in Family Court; communications between Family Courts and the District Administrative Judges' Offices; body language; statistical reporting; and management and confidential employee benefits.

City Court Chief Clerks Annual Seminar

October 31-November 2, 1984

The main focus of this seminar was on the use of microcomputers in the courts. The entire seminar area was turned into a giant microcomputer demonstration hall for a day and Chief Clerks of City Courts who already were using microcomputers, the Chief Clerk of the Monroe County Family Court and personnel from the Office of Management Support led the demonstrations and discussions.

Other major topics discussed by the seventy-three participants, representing fifty-five courts, were appeals procedures; the Procedures Manual; new legislation; and a workshop on nonverbal communication. The seminar was conducted at Ellenville, New York.

Employee Development Programs

The Seventh District, followed closely by the Eighth District, again led the way in availing itself of Employee Development Programs. These programs are offered Statewide, with determination for their need made by each judicial district and the courts within New York City. This year's attendance reach 630 employees, a number constrained only by the availability of staff to conduct them.

Employee Benefit Programs conducted in 1984 were:

Advanced Management Concepts	Oct. 23 Rochester Nov. 19 Buffalo
Career Life Planning	Oct. 30 Rochester
Conducting Employee Orientations	Oct. 23 Rochester
Court System Structure	Oct. 24 Rochester Oct. 25 Canandaigua Nov. 7 Buffalo
Dealing With the Public	Oct. 26 Canandaigua Nov. 20 Buffalo Dec. 11 Rochester
Ethics for Court Employees	Nov. 14 Rochester
Face-to-Face Communications	Dec. 14 Rochester
How to Take a Written Exam	Nov. 17 Buffalo Dec. 14 Rochester
The Lateral Entry Supervisor	Nov. 14 Rochester
Managerial Team Building	Feb. 22 Rochester
Office File Organization	Nov. 30 Rochester
One Minute Management	Oct. 19 Cortland Nov. 16 Canandaigua Dec. 12 Rochester
Personal Stress Management	June 5 Albany Nov. 9 Buffalo
Principles of Supervision	Nov. 19 Buffalo Nov. 27 Rochester Nov. 29 Canandaigua Dec. 10 Rochester Dec. 12 Rochester
Telephone Planning	Nov. 13 Rochester
Telephone Techniques	Nov. 13 Rochester
Time and Crisis Management	June 12 Albany Nov. 7 Buffalo Nov. 27 Rochester

Training and Coaching Employees	Nov. 5 Buffalo Nov. 26 Rochester
Understanding Body Language	Nov. 9 Buffalo Nov. 16 Canandaigua Dec. 10 Rochester
World of Women: Change, Challenge	Nov. 8 Buffalo Nov. 15 Canandaigua Dec. 13 Rochester
Written Communications	Oct. 22 Rochester Nov. 28 Canandaigua

These workshops were designed to make court managers and their subordinates better communicators and more effective workers. They were designed by Office of Court Administration personnel, often working with court personnel and sometimes with delivering them. The Office of Court Administration would particularly like to thank Deborah Berg, formerly of the Department of Labor and then with the Governor's Office of Employee Relations, who played a key role in the needs analysis, design and delivery of the "World of Women" workshop.

The workshops employ adult learning theory in having the participants perform exercises such as role playing, introspective written work, small and large group discussions, and analysis of case studies.

Employee Development Programs are designed to benefit the courts by enhancing the knowledge, attitudes, personal skills, and work habits of the individuals comprising the support staff of the Unified Court System.

Chapter 4

Legislation and Rule Revision

Legislation

The Office of Counsel is the principal representative of the Unified Court System in the legislative process. In this role, it is responsible for developing the Judiciary's legislative program and for providing the legislative and executive branches with analyses and recommendations concerning legislative measures which may have an impact on the courts and their administrative operations. It also serves a liaison function with bar association committees, judicial associations and other groups, public and private, with respect to changes in court-related statutory law.

Deputy Counsel staff the Chief Administrator's advisory committees on civil practice, criminal procedure and family law. These committees formulate legislative proposals in their respective areas of concern and expertise for submission to the Chief Administrator. When approved by the Chief Administrator, they are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

Each advisory committee also analyses other legislative proposals during the legislative session. Recommendations are submitted to the Chief Administrator, who, through his Counsel, communicates with the Legislature and the Executive on such matters in the form of legislative memoranda and letters to Governor's Counsel.

Counsel's Office also is responsible for drafting legislative measures required by the administrative office for the courts, including budget requests, adjustments in judicial compensation and measures to implement collective bargaining agreements negotiated with court employee unions pursuant to the Taylor Law. In addition, Counsel's Office analyzes other legislative measures that have potential impact on the administrative operation of the courts and makes recommendations to the Legislature and the Executive on such matters.

In the discharge of its legislation-related duties, Counsel's Office consults frequently with legislators, the professional staff of legislative committees and the Governor's Counsel for the purposes of generating support for the Judiciary's legislative program and providing technical assistance in the development of court-related proposals initiated by the executive and legislative branches.

During the 1984 Legislative Session, Counsel's Office, in conjunction with the advisory committees, prepared and submitted seventeen new measures for legislative consideration. In addition, forty-seven measures were carried over from the 1983 Session and of these sixty-four proposals, seven were ultimately enacted into law. Also during the 1984 Session, Counsel's office furnished Counsel to the Governor with analyses and recommendations on 147 court-related measures awaiting executive action, while the Legislature was supplied with written legislative memoranda on 99 measures.

The following is a summary of the measures submitted for introduction in the Legislature in 1984 at the request of the Office of Court Administration.

Measures Enacted Into Law in 1984

Chapter 47 (Senate bill 2153). Amends the Criminal Procedure law by adding a new section 10.40 and amends section 212(2) of the Judiciary Law to provide that the Chief Administrator has the power to adopt, amend and rescind forms for practice in criminal courts. Eff. 4/10/84.

Chapter 51 (Assembly bill 8532-A). The Judiciary Budget for the 1984-85 fiscal year, including an increase in the expense allowance of judges in travel status. Eff. 4/1/84.

Chapter 77 (Senate bill 7927). Amends subdivisions one and two of section 2402 of the Surrogate's Court Procedure Act and adds a new section 725 to provice that fees for estate probate and administation may be recomputed, subsequent to the issuance of letters, based on an estate's value as shown by such papers or documents filed in connection therewith as court rules may require to be filed and to authorize the Chief Administrator to promulgate rules insuring that the court is notified of the actual value of the estate as shown by any subsequent proceeding. Eff. 4/17/84 and applicable to all estates for which letters have been issued, whether prior to, on or after such date.

Chapter 156 (Senate bill 8029). Amends chapter 847 of the Laws of 1981 to make permanent provisions governing the Community Dispute Resolutions Center Program. Eff. 5/25/84 and deemed to have been in full force and effect since 7/27/81.

Chapter 313 (Senate bill 5116). Amends rule 3222(b) (1) and section 6001 of the CPLR to eliminate civil arrest as a provisional remedy. Eff. 7/3/84.

Chapter 329 (Senate bill 8445). Amends section 1007 and rule 1009 of the CPLR to provide that third-party complainants shall be served by the defendant upon the plaintiff's attorney simultaneously upon issuance for service on the third-party defendant. Eff. 1/1/85.

Chapter 845 (Senate bill 8477). Implements a collective bargaining agreement between the Unified Court System and public employee unions representing court reporters which prescribes the format of court transcripts and sets the rate of payment therefor in cases where the court system is responsible for such payment. Eff. 7/1/84.

Measures Newly Introduced in 1984 and Not Enacted Into Law

Senate 7698-A/Assembly 9413. This measure would amend the Vehicle and Traffic Law to permit the application for a court order compelling a driver to submit to a chemical test to be made to a judge of a local criminal court.

Senate 8126/Assembly 9496. This measure would amend the Family Court Act to extend the obligations of parents of a child born out of wedlock to include payments for the child's care, maintenance and education, if the parent has or can earn sufficient means to make such payments.

Senate 8272/Assembly 10495. This measure would amend the Family Court Act to authorize the court to hold a consolidated dispositional hearing in a delinquency proceeding where more than one delinquency petition has been filed against a respondent.

Senate 8341/Assembly 10300. This measure would amend the Family Court Act to make technical and clarifying changes in provisions relating to JD's and PINS.

Senate 8359/Assembly 11359. This measure would amend the CPL to provide that unless the court discharges alternate jurors after the jury retires to deliberate, it may require the defendant to consent in advance to replacement of any juror by an alternate juror under certain circumstances.

Senate 8630/Assembly 10418. This measure would amend the Public Health Law in relation to the release of certain identifying information in adoptions.

Senate 8733-A/Assembly 10998. This measure would amend the Uniform City Court Act, the CPLR and the Judiciary Law to reform the organization and operation of the State's 61 city courts outside New York City.

Senate 9191/Assembly 10791. This measure would amend the CPL to provide that motions to suppress identification testimony based upon chemical tests of the defendant's blood may, in the discretion of the court, be heard and determined, outside the presence of the jury, after the commencement of trial.

Senate 9641/Assembly 11550. This measure would amend the CPL to provide that reproduction of records relating to the conditions or treatment of a patient demanded in subpoena duces tecum shall be legible, and to provide that such subpoena must be served at least 3 days, rather than 24 hours, before the time fixed for reproduction of the records.

Senate 9659/Assembly 9493. This measure would amend section 26 of Article VI of the Constitution to authorize the temporary assignment of District Court judges to the Supreme or Family Court within the same judicial department.

Senate 10060/Assembly 11946. This measure would amend the Executive Law to provide that judicial review of human rights cases shall be brought in Supreme Court rather than the Appellate Division.

Assembly 10067. This measure would amend the CPLR to fix at two years, from the date plaintiff discovered or could have discovered injury, the time for instituting an action to recover damages for personal injury or injury to property caused by a toxic or harmful substance or hazardous waste.

Assembly 11369. This measure would amend the CPL to permit the court to direct that all sworn jurors be removed from the jury box and that the jury box be occupied by such additional number of persons from the panel as the court shall direct and to strike out the requirement that removal of such jurors be with the consent of the parties.

Rules Revision

Numerous constitutional and statutory provisions require the Chief Judge and Chief Administrator to promulgate rules affecting the operation of the courts. Rules of the Chief Judge are promulgated after consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals. Rules of the Chief Administrator of the Courts are promulgated as follows: administrative and trial court calendar rules, after consultation with the Administrative Board of the Courts; rules of judicial conduct, with the approval of the Court of Appeals; and trial court rules of practice and procedure, with the advice and consent of the Administrative Board of the Courts.

The following rules were promulgated by the Chief Judge in 1984:

Subdivision (g) of section 7.1 of part 7 of the Rules of the Chief Judge of the State of New York (22 NYCRR 7.1(g)), in relation to law guardians, was amended, effective October 18, 1984, to establish the date for annual reporting by the Appellate Divisions for each calendar year of July 1 of the next succeeding calendar year.

Part 33 of the Rules of the Chief Judge (22 NYCRR Part 33), was amended, effective October 22, 1984 to provide procedures for the temporary assignment to the Supreme Court of judges of the Family Court within the City of New York.

The following rules were promulgated by the Chief Administrator in 1984:

Subdivision (a) of section 102.1 of the Rules of the Chief Administrator of the Courts, effective *nunc pro tunc* as of January 1, 1982, was amended in relation to the reimbursement of transportation expenses in connection with the performance of judicial duties to provide for mileage reimbursement at a rate of 23 cents per mile when transportation is provided by personally-owned automobile;

Part 107 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 107), relating to the salary schedules for nonjudicial personnel, was amended by adding a new section 107.7 (22 NYCRR 107.7), effective April 1, 1984, and a new section 107.8 (22 NYCRR 107.8), Effective September 1, 1984, reflecting higher salaries as a result of the implementation of collective bargaining agreements.

A new Part 108 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 108), entitled "Format of Court Transcripts and Rates of Payment therefor, when the Unified Court System is responsible for Payment," was added effective July 1, 1984, which provided for a standard format for court transcripts and annual increases in the rates paid per page for these transcripts.

Sections 113.2 and 113.5(a) of the Rules of the Chief Administrator of the Court (22 NYCRR 113.2, 113.5(a)), promulgated pursuant to section 439 of the Family Court Act and Part 31 of the Rules of the Chief Judge (22 NYCRR Part 31), were amended in relation to the service of law clerks as hearing examiners in the Family Court and the compensation and expenses of hearing examiners.

Part 121 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 121), was amended, effective October 23, 1984, to provide procedures for the temporary assignment of judges of the Family Court within the City of New York to the Supreme Court.

In addition, the special Rules Committee formed in Counsel's office in 1983 to review and rewrite the rules governing practice in the courts continued its work on uniform statewide rules of practice and procedure. A first draft of these rules had been circulated to all administrative judges in 1983. Their suggestions were incorporated into a second draft, which was widely circulated to the bench and bar in January, 1984.

Many suggestions, changes and criticisms were received from the bench and bar in response to the second draft. All were carefully evaluated, and numerous changes were made in the rules based upon the advice received. This revised final draft was sent to the Administrative Board for review, and additional changes were made pursuant to the directions of the Board. On November 5, 1984, the Administrative Board approved the rules for promulgation by the Chief Administrator, effective April 1, 1985. The Administrative Board has since extended the effective date until October 1, 1985, in order to extend the transition for the bench and bar.

1985 Report

of the

Advisory Committee on Civil Practice

to the

Chief Administrator of the Courts

of the

State of New York

February, 1985

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Introduction

The members of the Committee are Sheila L. Birnbaum, Esq., Chairperson, Robert M. Blum, Leon Brickman, Robert L. Conason, Edward C. Cosgrove, William D. Eggers, Paul A. Feigenbaum. Myrna Felder, John T. Frizzell, Hyman W. Gamso, Raymond W. Hackbarth, James J. Harrington, Edward J. Hart, Richard B. Long, John A Murray, Richard Rifkin, Leo Salon, Professor David D. Siegel, Shirley Adelson Siegel and Peter G. Smith. During the past year, Paul A. Feigenbaum, Esq., a specialist in commercial litigation, and former Counsel to the Office of Court Administration, was appointed as a member of the Committee, and *ex officio* membership was conferred upon a distinguished former member of the Committee, Professor Paul S. Graziano.

Since the expansion of the Committee's membership in April, 1983, the Chairperson, Sheila L. Birnbaum, Esq., has appointed several subcommittees, consisting of Committee members who are experts in particular areas of civil procedure, to monitor developments in those areas, to advise whether any action, including legislation, may be added, and to prepare and review legislative proposals with respect thereto. At present, nine such subcommittees are ably assisting the Committee in its work in the following branches in civil adjective law: matrimonial procedures, evidence, enforcement provisions, statutes of limitations, continuation and apportionment of damages, service of process, small claims, motion practice and uniform rules of practice. It is anticipated that a Subcommittee on Legislation will be appointed to review legislation, other than that recommended by the Committee, as it is introduced in the current session of the Legislature, thereby fully implementing the Committee's advisement function. As the need arises, additional specialized subcommittees will be formed.

Particular notice should be taken of the painstaking care with which the Committee, assisted by the Subcommittee on Uniform Rules and the Subcommittee on the Code of Evidence, considered and formulated recommendations on the Proposed Uniform Rules for the New York State Trial Courts and the Proposed Code of Evidence. Continuing discussions, which consumed the better part of many meetings, as well as a great deal of study between meetings, were devoted to both of these topics, which are of great importance to the legal community and practice. Special Reports to the Chief Administrator of the Courts resulted from both of these endeavors.

Comprised of leading practitioners from every Judicial Department of the State, the Committee was extremely interested in and well-equipped to comment expertly on the Proposed Uniform Rules. The Committee's many comments and suggestions contributed significantly to the final product, which was approved by the Administrative Board of the Courts on November 9, 1984, and is scheduled to become effective on October 1, 1985, as the first set of uniform rules for the governance of the State's trial courts.

After extended discussions, the Committee took no position either on a Code of Evidence as such or on the particular Code proposed, limiting itself, by virtue of its basically procedural concentration, to making recommendations to the Chief Administrator of the Courts with respect to the Proposed Code's impact on civil procedure. The Committee pointed out that, if enacted, the Code should specify the extent and nature of the pre-admission notice required by several Code provisions, and the procedures relating to such notice, which were only generally set forth at the time of the Committee's study.

The diversified work of the Subcommittees on future and pending matters is detailed in Part V of this Report.

This Report consists of five parts, as follows:

Part I briefly discusses the disposition of the Committee's 1984 proposals that were submitted to the Legislature.

Part II sets forth the Committee's 1985 recommendations on disclosure, a few of which differ from those recommended in the 1984 Report. Most of the changes, which are indicated in the Report, were adopted by the Committee on the basis of comments and recommendations received from the Legislature, as well as from bench and bar, on the solicitation of the Committee in its 1984 Report, and on the basis of amendments to Article 31 of the CPLR that were made by the Legislature in 1984 (Chapter 294 of the Laws of 1984).

Part III reports on all the Committee's proposals to the 1985 legislature with respect to the CPLR, other than those on disclosure contained in Part II.

Part IV sets forth the Committee's proposal for amendment of General Obligations Law §15-108, with respect to contribution, indemnification and settlement of claims.

Part V concludes the Report with a summary of the Committee's continuing projects and new plans for future recommendations.

Although the details are beyond the scope of this Report, it should be mentioned that, in addition to recommending its annual legislative program, the Committee reviews and comments on pending measures, other than its own, to revise civil procedures in the courts.

The Committee wishes to acknowledge the continuous aid and assistance of its able counsel, William A. Bulman and John P. Brosnan of the Office of Court Administration.

Part I Disposition of 1984 Recommendations

CPLR 214, 214-c(new) (A. 10067).

This bill, which provides for a two-year period of limitation, triggered by actual or imputed discovery of injury and cause thereof, for an action to recover damages for personal injury or injury to property caused by toxic or harmful substance or a hazardous waste, was not enacted last year and is resubmitted this year. The bill appears with comment on pages 51-53 of this Annual Report.

2. CPLR 308, CPLR 3215(e), (f) (S. 4335; A. 5951).

This bill, which provides that where an action is based on a consumer credit transaction, an additional notice of default judgment must be given, was not enacted last year and is resubmitted this year. The bill appears with comment pages 53-54 of this Annual Report.

3. CPLR 1007, 1009 (S. 8445; A. 11426).

This bill, designed to make more specific the time frames and other details governing third party practice, in order to assure that plaintiff has adequate time to amend his complaint without leave of court, to assert any claim the plaintiff may have against the third party defendant, was enacted as Chapter 329 of the Laws of 1984.

4. CPLR 2306(a) (S. 9641; A. 11550).

This bill, which would require that a reproduction of an institutional record under subpoena must be in the form of a full-sized legible copy, and would extend the time within which to prepare and produce the same, was not enacted last year, and is resubmitted this year. The bill appears with comment on page 55 of this Annual Report.

5. CPLR 3041, 3042 (S. 4233; A. 6770).

This bill, which would streamline the procedures governing the use of bills of particulars by reducing motion practice and curbing related abuses, was not enacted in 1984 and is resubmitted with one change in conformance with section 1 of Chapter 294 of the Laws of 1984, and several changes in form. The bill appears with comment on pages 55-57 of this Annual Report.

6. CPLR Article 31 (S. 5117; A. 6597).

This bill proposes major changes in the provisions of the CPLR which would generally liberalize, update and improve the provisions of the CPLR relating to disclosure. It was not enacted in 1984 and is resubmitted with several significant revisions, including those conforming to Chapter 294 of the Laws of 1984. The bill appears with comments on pages 42-51 of this Annual Report.

7. CPLR 3222(b) (1), 6001 (S. 5116; A. 6158).

This bill, which proposed the striking of references to civil arrest, obsolete since the abolition of the provisional remedy by Chapter 409 of the Laws of 1979, was enacted by Chapter 313 of the Laws of 1984.

8. CPLR 5250 (S. 5115; A. 6248).

This bill, which would repeal CPLR 5250 to abolish the remedy of civil arrest an adjunct in the enforcement of money judgments, which is consistent with the 1979 abrogation of the analogous provisional remedy, failed to pass last year. It is resubmitted this year and appears with comment on pages 58-59 of this Annual Report.

9. CPLR 6313(a) (S. 4172; A. 5869).

By facilitating the giving of informal notice of applications for temporary restraining orders, this bill is intended to make such notice routine, except in exigent circumstances. The bill, which was not enacted last year, is resubmitted this year and appears with comment on pages 61-62 of this Annual Report.

10. CPLR 7502(c) (S. 5014).

This bill, amending CPLR 7502 to include new subdivision (c), would make the provisional remedies of attachment and injunction available in Article 78 proceedings, upon order of court. The bill, which failed of enactment last year, is resubmitted this year and appears with comment on pages 62-64 of this Annual Report.

11. CPLR 7503 (S. 4211; A. 5903).

This bill would add new subdivision (d) to CPLR 7503, to direct that the trial of issues of fact arising on an application to compel or stay an arbitration be conducted without a jury. Having failed to pass last year, the bill is resubmitted this year and appears with comment on page 64 of this Annual Report.

12. CPLR 7804(g) (S. 3460; A. 5902).

This bill, which was not enacted last year, would facilitate disposition of Article 78 proceedings by making clear which issues of law the Supreme Court is to resolve before transferring the case to the Appellate Division for review of the substantial evidence question. This bill is resubmitted this year with a technical change and appears with comment on pages 64-65 of this Annual Report.

13. CPLR 8001(a) (S. 4178; A. 6323).

This bill, which was not enacted last year, will be resubmitted this year in order to update attendance fees and travel expenses payable to witnesses. The bill, as revised, appears with comment on pages 65-66 of this Annual Report.

14. 8201-8204 (S, 6544; A. 5773).

Owing to the level of inflation over the last 15 years, this bill would effect an upward revision of court costs and would provide for uniform statewide application. The bill, which failed to be enacted last year, is resubmitted this year and appears with comment on pages 66-68 of this Annual Report.

15. CCA §1809, UCCA §1809, UDCA §1809, UJCA §1809 (S. 4171; A. 5772).

This bill proposed the amendment of identical sections of the New York City Court Act and the Uniform Court Acts to simplify the provisions and to strike restrictive language that otherwise would continue to limit appearances without attorneys by corporate defendants in small claims actions to only those corporations that qualify under the existing language. This measure, while not in any way altering the present prohibition against a corporation commencing a small claim action as a plaintiff, with or without an attorney, would permit any corporation to *defend* a small claim action through an officer, director or employee, who need not be an attorney. The bill failed to pass last year. However, since similar proposals were enacted by Chapter 157 of the Laws of 1984, this bill is not being resubmitted.

Part II Recommendations on Disclosure

CPLR Article 31.

After several years of painstaking study of disclosure in civil actions, the Committee recommended to the 1983 Legislature a bill generally revising Article 31, the disclosure article of the CPLR, in order to ensure fairness to litigants, and to effect the expeditious disposition of civil actions. Upon revision, the bill, having failed of enactment in 1983 and 1984, is recommended to the 1985 session of the Legislature.

The Committee's proposals have generated many comments from bench, bar and academia during and after the 1983 and 1984 Sessions of the Legislature. The Chairperson and members of the Committee and staff have discussed at length the provisions of the bill with legislative representatives. Included in these discussions were the topics of pretrial disclosure of experts and financial sanctions, as well as the amendments in the disclosure article effected by Chapter 294 of the Laws of 1984. The bulk of the Chapter 294 changes affected time limits applicable to use of disclosure devices. In addition, two provisions involving policy changes were enacted by Chapter 294:

1. A new provision was enacted (CPLR 3101(a) (4)) to provide for a notice and subpoena procedure for nonparty witnesses, under which circumstances or reasons for the disclosure would have to be shown. The Committee had originally proposed abolition of any special circumstances requirement to justify the requested disclosure of nonparty witnesses.

2. A new provision was inserted (CPLR 3106 (d)) to provide that a party seeking disclosure from a corporation may, in the first instance, designate a corporate representative by identity, description or title, with the additional provision, not originally proposed by the Committee, which would allow the corporation to produce a deponent other than the one designated by the party seeking disclosure, but only upon timely notice thereof containing a counter-designation.

The Committee believes that the 1984 amendments provide a good starting point for revision of Article 31, but continues to recommend proposals on financial sanctions and changes in the rules regarding pre-trial disclosure of experts.

Careful note should be taken of the following changes adopted by the Committee since the submission of the 1983 bill:

1. CPLR 3101(a) (Scope of Disclosure) Matrimonial actions

The Committee, after careful consideration, again proposes to include in the Memorandum in Support a statement of legislative intent clearly setting forth that the proposed amendments are not intended to affect existing or evolving statutes or decisional law as to the availability of disclosure in matrimonial actions or custody or visitation proceedings. This special reference to matrimonial actions is deemed by the Committee to be important to clarify the effect of the amendments upon disclosure in those types of actions.

2. Expert witnesses (3101 (d)) (Experts)

The Committee continues to propose, as a general rule in CPLR 3101 (d), the pretrial disclosure, upon request, of the experts' identity and the substance of the experts' testimony.

In addition, the Committee proposes, by way of an exception to the general rule, that in an action for medical malpractice, the party, in responding to the request, may omit the identity of the expert. The Committee has been advised that in medical malpractice actions, the mandatory pretrial identification of medical experts poses unique problems which warrant the proposed statutory exception.

The Committee proposes, as another general rule, that any further disclosure of expert testimony, beyond that provided in response to the notice, shall require a court order. However, the Committee's proposed bill expressly would provide that a party, without court order, may take the testimony of a person authorized to practice medicine who is his or her treating or retained expert, and, in that event, any other party shall be entitled to the full disclosure authorized by CPLR Article 31. This provision simply would clarify the effect of existing CPLR 3101(a) (3) on proposed new CPLR 3101(d) (1) (Experts).

3. CPLR 3101(g) (Scope of Disclosure) Accident Reports

The Committee reaffirms its decision to withdraw its 1983 recommendation for the repeal of the existing provision for pre-trial disclosure of accident reports. Although a strong body of opinion holds this subdivision to be superflous as a restatement of existing law, the comments received by the Committee on its proposed repeal indicate that repeal would further complicate this area of law, since it might be construed as a substantive change.

4. CPLR 3101(i) (Scope of Disclosure) Amendment or Supplementation of responses to requests for disclosure

The Committee again proposes, consistent with its overall intent to accelerate proceedings, to interject the imperative of *prompt* amendment or supplementation of responses by a party to requests for disclosure, which otherwise, in the light of newly acquired knowledge, would be materially misleading. The original proposal failed to specify that such amendment should be made promptly upon the perception of its necessity.

As so revised in the light of extensive public and professional comment in the past two years, the foregoing revisions, set forth and more fully explained hereafter, represent the broadest possible consensus on a measure which promises speedier justice by means of a major improvement in civil procedure governing disclosure.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to disclosure.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-one hundred one of the civil practice law and rules, as subdivision (a) thereof was amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, and as subdivision (f) thereof was added by chapter six hundred sixty-eight of the laws of nineteen hundred seventy-five, and as subdivision (g) thereof was added by chapter two hundred eighty-three of the laws of nineteen hundred eighty, is amended to read as follows:

Section 3101. Scope of disclosure.

(a) Generally. There shall be full disclosure of all [evidence material and necessary in] *matter relevant to* the prosecution or defense of an action, regardless of the burden of proof, by:

(1) a party, of the officer, director, member, agent or employee of a party;

(2) a person who possessed a cause of action or defense asserted in the action;

(3) a person about to depart from the state, or without the state, or residing at a greater distance from the place of trial than one hundred miles, or so sick or infirm as to afford reasonable grounds of belief that he will not be able to attend the trial, or a person authorized to practice medicine who ahs provided medical care or diagnosis to the party demanding disclosure, or who has been retained by him as an expert witness; and

(4) any other person, upon notice stating the circumstances or reasons such disclosure is sought or required.

(b) Privileged matter. Upon objection [by a party] privileged matter shall not be obtainable.

(c) Attorney's work product. the work product of an attorney shall not be obtainable.

(d) [Material prepared for litigation. The following shall not be obtainable unless the court finds that the material can no longer be duplicated because of a change in conditions and that withholding it will result in injustice or undue hardship:

1. any opinion of an expert prepared for litigation; and

2. any writing or anything created by or for a party or his agent in preparation for litigation.] *Trial preparation.*

1. Experts. Upon request, each party shall identify each person whom such party expects to call as an expert witness at trial and shall disclose in reasonable detail the subject matter on which each such expert is expected to testify, the substance of the facts and opinions to which such expert is expected to testify and a summary of the grounds for such opinions. Further disclosure concerning the expected testimony of any expert may be obtained only by court order upon a showing of special circumstances and subject to such restrictions as to scope and such provisions concerning fees and expenses as the court may deem appropriate. There are two exceptions:

(i) a party, without court order, may take the testimony of a person authorized to practice medicine who is his or her treating or retained expert, as provided by paragraph three of subdivision (a) of this section, and, in that event, any other party shall be entitled to the full disclosure authorized by this article with respect to such physician without the need of a court order.

(ii) in an action for medical malpractice, the party in responding to a request, may omit the names of medical experts.

2. Materials. Subject to the provisions of paragraph one of subdivision (d), materials otherwise discoverable under subdivision (a) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including an attorney, consultant, surety, indemnitor, insurer or agent), may be obtained only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation.

(e) Party's statement. A party may obtain a copy of his own statement.

(f) Contents of insurance agreement. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purpose of this subdivision, an application for insurance shall not be treated as part of an insurance agreement.

(g) Accident reports. Except as otherwise provided by law, in addition to any other matter which may be subject to disclosure, there shall be full disclosure of any written report of an accident prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity, unless prepared by a police or peace officer for a criminal investigation or prosecution and disclosure would interfere with a criminal investigation or prosecution.

(h) Persons having knowledge. A party shall disclose the names and addresses of all persons having knowledge of any matter discoverable under this section.

(i) Amendment or supplementation of responses. A party who has responded to a request for disclosure shall promptly amend or supplement the response upon the party's thereafter obtaining information that the response was incorrect when made or that the response, though correct and complete when made, is no longer correct and complete and the circumstances are such that a failure to amend or supplement the response would be materially misleading. Further amendment or supplementation may be obtained by court order.

§2. Subdivision (c) of rule thirty-one hundred two of such law and rules is amended to read as follows:

(c)Before action commenced [; real property actions]. Before an action is commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order. The court may appoint a referee to take testimony. [Where such disclosure is obtained for use in an action involving title to real property the deposition or other document obtained shall be promptly recorded in the office of the clerk of the county in which the real property is situated.]

§3. Subdivision (a) of section thirty-one hundred

(a) Prevention of abuse. The court may at any time on its own initiative, or on motion of any party [or witness] *or of any person from whom discovery is sought,* make a protective order denying, limiting, conditioning or regulating the use of any disclosure device. Such order shall be designed to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts.

§4. Subdivision (d) of rule thirty-one hundred six of such law and rules, as added by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, is amended to read as follows:

(d) Designation of deponent. A party desiring to take the deposition of a particular officer, director, member or employee of a person shall include in the [notices] *notice* [of] *or* subpoena served upon such person the identity, description or title of such individual. Such person shall produce the individual so designated unless [they] *such person* shall have, no later than ten days prior to the scheduled deposition, notified the requesting party that another individual would instead be produced and the identity, description or title of such individual is specified. If timely notification has been so given, such other individual shall instead be produced.

§5. Rule thirty-one hundred eight of such law and rules, as redesignated by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, and as amended by chapter five hundred thirty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Written questions [; when permitted].

A deposition may be taken on written questions [when the examining party and the deponent so stipulate or when the testimony is to be taken without the state]. A commission or letters rogatory may be issued where necessary or convenient for the taking of a deposition outside of the state.

§6. Paragraph 2 of subdivision (a) of rule thirty-one hundred thirteen of such law and rules is amended to read as follows:

2. without the state but within the United States or within a territory or possession subject to the [dominion] *jurisdiction* of the United States, a person authorized to take acknowledgements of deeds outside of the state by the real property law of the state or to administer oaths by the laws of the United States or of the place where the deposition is taken; and

§7. Subdivision (a) of rule thirty-one hundred sixteen of such laws and rules, as amended by chapter two hundred ninety-two of the laws of nineteen hundred seventy-eight, is amended to read as follows:

(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath [, except that a witness who is an adverse party shall not be required to sign each deposition upon thirty days prior written notice to return the examination signed]. If [a] *the* witness [, other than an adverse party,] fails to sign the deposition, [the officer before whom the deposition was taken shall sign it and state on the record the fact of the witness' failure or refusal to sign, together with any reason given. The deposition] *it* may [then] be used as fully as though signed.

§8. Subdivision (a) of rule thirty-one hundred twenty of such law and rules, as redesignated by chapter three hundred fifteen of the laws of nineteen hundred sixty-two, and as amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, is amended to read as follows:

(a) As against party:

1. After commencement of an action, any party may serve on any other party notice:

(i) to produce and permit the party seeking discovery, or someone acting on his behalf, to inspect, copy, test or photograph any [specifically] designated documents or any things which are in the possession, custody or control of the party served [, specified with reasonable particularity in the notice]; or

(ii) to permit entry upon designated land or other property in the possession, custody or control of the party served for the purpose of inspecting, measuring, surveying, sampling, testing, photographing or recording by motion pictures or otherwise the property or any [specifically] designated object or operation thereon.

2. The notice shall specify the time, which shall be not less than twenty days after service of the notice, and the place and manner of making the inspection, copy, test or photograph, or of the entry upon the land or other property *and, in the case of an inspection, copying, testing or photographing, shall set forth the times to be inspected, copied, tested or photographed by individual item or by category, and shall describe each item and category with reasonable particularity.*

§9. Rule thirty-one hundred twenty-two of such law and rules, as amended by chapter eighty of the laws of nineteen hundred seventy-nine, is amended to read as follows:

Rule 3122. Objection to [discovery] *disclosure*, inspection or examination.

Within [ten] *twenty* days of service of a notice under rule 3120 or section 3121[a] *the* party *to whom the notice is directed* [may serve a notice of motion for a protective order, specifying his objections.] , *if that party objects to the disclosure, inspection or examination, shall serve a response which shall state with reasonable particularity the reasons for each objection. If objection is made to part of an item or category, the part shall be specified. The party seeking disclosure under rule 3120 or section 3121 may move for an order under rule 3124 with respect to any objection to, or other failure to respond to or permit inspection as requested by, the notice or any part thereof.*

§10. Subdivision (a) of section thirty-one hundred twenty-three of such law and rules, as amended by chapter five hundred thirty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

(a) Notice to admit; admission unless denied or denial excused. At any time after service of the answer or after the expiration of twenty days from service of the summons, whichever is sooner, and not later than twenty days before the trial, a party may serve upon any other party a written request for admission by the latter of the genuineness of any papers or documents, or the correctness or fairness of representation of any photographs, described in and served with the request, or of the truth of any matters of fact set forth in the request, as to which the party requesting the admission reasonable believes there can be no substantial dispute [at the trial] and which are within the knowledge of such other party or can be ascertained by him upon reasonable inquiry. Copies of the papers, documents or photographs shall be served with the request unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless within twenty days after service thereof, or within such further time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters, *or if denial is based upon lack of knowledge, that the means the of securing such knowledge is not reasonably available to the party.* If the matters of which an admission is requested cannot be fairly admitted without some material qualification or explanation, or if the matters constitute a trade secret or such party would privileged or disqualified from testifying as a witness concerning them, such party may, in lieu of a denial or statement, serve a sworn statement setting forth in detail his claim and, if the claim is that the matters cannot be fairly admitted without some material qualification or explanation, admitting the matters with such qualification or explanation.

§11. Rule thirty-one hundred twenty four of such law and rules is REPEALED, and a new section, to be section thirty-one hundred twenty-four, is added, to read as follows:

Rule 3124. Failure to disclose; motion to compel disclosure.

If a person fails to respond to or comply with any requests, notice, interrogatory, demand, question or order under this article, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response. For purposes of this section, an evasive or incomplete answer is a failure to comply.

§12. Section thirty-one hundred twenty-six of such law and rules, as amended by chapter forty-two of the laws of nineteen hundred seventy-eight, is amended to read as follows:

Section 3126. penalties for [refusal]*failure* to comply with orders or to disclose.

If any party, or a person who at the time a deposition is taken or an examination or inspection is made [,] is an officer, director, member, employee, or agent of a party or otherwise under a party's control, [refuses] *fails* to obey an order for disclosure or willfully fails to disclose information which the court finds ought to have been disclosed pursuant to [notice duly served] *this article,* the court may make such orders with regard to the failure [or refusal] as are just, among them:

1. an order that the issues to which the information is relevant shall be deemed resolved for purposes of the action in accordance with the claims of the party obtaining the order; or

2. an order prohibiting the disobedient party from supporting or opposing designated claims or defenses, from producing in evidence designated things or items of testimony, or from introducing any evidence of the physical, mental or blood condition sought to be determined, or from using certain witnesses; or

3. an order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or any part thereof, or rendering a judgment by default against the disobedient party.

§13. Such law and rules are amended by adding a new section, to be section thirty-one hundred twenty-seven of such law and rules, to read as follows:

§3127. Award of costs and expenses of motions.

(a) If a motion under section 3103, 3124, or 3126 is granted, the court shall require the party or person whose conduct necessitated the motion or the attorney advising such conduct or both to pay to the moving party the costs and reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

(b) If a motion under section 3103, 3124, or 3126 is denied, the court shall require the moving party or the attorney advising the motion or both to pay to the party or person who opposed the motion the costs and reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

(c) If a motion under section 3103, 3124, or 3126 is granted in part and denied in part, the court shall apportion costs and reasonable expenses incurred in relation to the motion, including attorney's fees, among the parties and persons in a just manner.

§14. Subdivision one of section thirty-one hundred thirty of such law and rules, as so designated by chapter two hundred seventy-five of the laws of nineteen hundred eighty-three, and as amended by chapter one hundred ninety-seven of the laws of nineteen hundred seventy-nine, is amended to read as follows:

Section 3130. Use of interrogatories.

1. After commencement of an action, any party may serve upon any other party written interrogatories. A party may not serve written interrogatories on another party and also demand a bill of particulars pursuant to section 3041 [nor, in the case of an action to recover damages for an injury to property or a personal injury resulting from negligence or wrongful death, take a deposition pursuant to rule 3107] without leave of court.

§15. Rule thirty-one hundred thirty-two of such law and rules, as added by chapter four hundred twenty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3132. *Normal priority* [service] of interrogatories.

[After commencement of an action, any party may serve upon any other party written interrogatories.] If service *of written interrogatories* is made by any plaintiff upon any defendant [within twenty days after service upon him of the summons and complaint, or service is made by any defendant upon the plaintiff within five days after service upon him of the summons and complaint] *before that defendant's time for serving a responsive pleading has expired,* leave of court granted [with or without notice] *on motion* must be obtained. A copy of the interrogatories and of any order made under this rule shall be served on each party.

§16. Rule thirty-one hundred thirty-three of such law and rules, as added by chapter four hundred twenty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3133. *Service of answer or* [Objections] *objections* to interrogatories.

(a) [When objection may be made] *Service of an answer or objection.* Within [ten] *twenty* days after service of interrogatories, the party upon whom they are served [may move upon notice to strike out any interrogatory, stating the grounds for objection.

(b) Suspension pending ruling. The answer to any interrogatory to which objection is made shall be deferred until the objections are ruled on by the court] *shall serve upon each of the parties a copy of the answer to each interrogatory, except one to which the party objects, in which event the reasons for the objection shall be stated with reasonable particularity.*

(b) Form and answers and objections to interrogatories. Interrogatories shall be answered in writing under oath by the party upon whom served, if an individual, or, if the party served is a corporation, a partnership or a sole proprietorship, by an officer, director, member, agent or employee having the information. Each question shall be answered separately and fully, and each answer shall be preceded by the question to which it responds. Objections to interrogatories shall be signed by the attorney for the party making them.

(c) Amended answers. Except with respect to amendment or supplementation of responses pursuant to subdivision (i) of section 3101, answers to interrogatories may be amended or supplemented only by order of the court upon motion.

§17. Rule thirty-one hundred thirty-four of such law and rules is REPEALED.

§18. Section thirty-one hundred forty of such law and rules, as added by chapter six hundred forty of the laws of nineteen hundred sixty-seven, is amended to read as follows:

§3140. Disclosure of appraisals in proceedings for [condemnanation] *condemnation,* appropriation or review of tax assessments.

Notwithstanding the provisions of subdivisions (c) and (d) of section 3101, the [appellate division in each judicial department] *chief administrator of the courts* shall adopt rules governing the exchange of appraisal reports intended for use at the trial in proceedings for condemnation, appropriation or review of tax assessments.

§19. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Note:

Rule 3124, relating to motion to compel disclosure, would be REPEALED and replaced by new section 3124. Rule 3134, relating to answers to interrogatories, would be REPEALED and the matter inserted in section 3133.

Comment

Over the three-year period during which the Committee devoted a major share of its time to this important project, each member contributed significantly to the final product. Special mention, however, is owing to Robert T. Greig, Esq., formerly a member of the Committee, and the Honorable William P. McCooe, Justice of the Supreme Court, a consultant to the Committee, for their outstanding dedication of time, effort and talent to the drafting of the proposals set forth herein.

This measure is proposed to accomplish the following general purposes: (1) liberalization of disclosure, (2) codification of recent New York case law, (3) greater statewide uniformity in disclosure proceedings, (4) substitution of the relevancy standard of admissibility of evidence for the "material and necessary" standard, (5) establishment of a notice procedure to obtain the names of experts retained for appearance at trial and the anticipated substance of the experts' testimony, (6) broadening of the disclosure of expert witnesses, (7) imposition of adequate sanctions, such as the payment of costs and reasonable attorney's fees, against parties who ignore or misuse the disclosure process, and (8) reduction of motion practice by more informal procedures and by sanctions against frivolous or unnecessary motions.

An explanatory commentary upon this measure follows:

Section 3101

Subdivision (a)

The preamble of subdivision (a) of section 3101 would be amended to permit disclosure of "relevant" matter. This change would reflect the broad interpretation given to the existing "material and necessary" standard by the Court of Appeals in *Allen* v. *Crowell-Collier Publishing Co.,* 21 N.Y. 2d 403 (1968), and would conform the statutory language to the standard that is generally applied in practice. *See Hoenig* v. *Westphal,* 52 N.Y. 2d 605, 608 (1981); *Prink* v. *Rockfeller Center, Inc.,* 48 N.Y. 2d 309, 314 n. 1 (1979). The amendment also would make it clear that disclosure is not limited to information and materials which would be admissible as evidence at trial.

With respect to matrimonial actions and custody and visitation proceedings, however, the Committee does not intend to affect existing or evolving statutes and decisional law as to the availability of disclosure.

Adequate protection against abuse of disclosure procedures is afforded by the power of the court under section 3103(a) to make a protective order "to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts", by the proposal in this bill for financial sanctions; and by the requirement for special circumstances under section 3101(a) (3) or for a statement of circumstances or reasons for disclosure under section 3101(a) (4).

Subdivision (b)

Subdivision (b) would be amended to reflect the fact that the holder of the privilege in question need not be a party to the action in order to invoke the privilege.

Subdivision (c)

Subdivision (c) would not be amended. The scope of the "work product" rule has been adequately defined by case law and commentators. Subdivision (c) should be construed narrowly "to include only those materials prepared by the attorney, acting as an attorney, and containing his or her analysis and trial strategy." 3A Weinstein, Korn & Miller N.Y. Civ. Prac. ¶ 3101.44. Under this narrow construction, materials that are subject to disclosure under the amended provisions of subdivision (d) would not be protected under subdivision (c).

Subdivision (d)

Proposed CPLR 3101(d) would provide that any party, upon request, is entitled, without the need for a court order, to obtain from any other party the name of each person the other party intends to call as an expert witness, and the substance of the expert's expected testimony. An exception to the obligation to disclose the name of each expert witness one expects to call is made for medical malpractice actions, because the Committee has been advised that in these actions the mandatory pretrial identification of expert witnesses poses unique problems. The proposed provision would permit a party in a medical malpractice action to omit the name of the expert when responding to a pretrial request.

The provision requires that further disclosure concerning an expert's expected testimony be obtained only on court order. However, it is made clear that a party, without court order, may take the testimony of a licensed physician who is that party's own treating or retained expert as described in CPLR 3101(a)(3), and in that instance any other party would become entitled to full disclosure of such physician without court order.

With some variation, proposed CPLR 3101(d) would enact the substance of the present federal rule. Thereby parties would generally be able to conduct basic disclosure regarding experts without court order, but further disclosure by court order would not be precluded in appropriate circumstances and with appropriate protection against misuse of the disclosure process. The decisions of the federal courts in applying Federal Rule of Civil Practice 26(b)(4) would provide guidance in the interpretation of the amended subdivision (d)(1) insofar as the provisions are similar.

It is contemplated that disclosure by court order under proposed CPLR 3101(d)(1) would be permitted only for compelling reasons or if a party fails to make a good faith response to a request made thereunder. A party who, when served with a request under subdivision (d)(1), does not expect to call any expert witnesses or has not determined which, if any, experts the party expects to call as expert witnesses, would be required to give written notice to that effect to the party serving the request. However, if, subsequent to responding to the request, the party's expectations changed, supplementation or amendment of the response would be required under subdivision (i), as failure to amend or supplement a response to the effect that a party does not at the time of responding expect to call any expert witnesses would become materially misleading if the party making the response subsequently decided to call such a witness.

Proposed CPLR 3101(d)(2) (Materials) would similarly expand the scope of pretrial disclosure of materials prepared for litigation or for trial, although such disclosure would continue to be permitted in only fairly narrow circumstances. New subdivision (d)(2) would follow the federal rule and thus could be interpreted in the light of federal decisions.

Subdivision (h)

New subdivision (h) would explicitly allow discovery of the identity and location of all persons, such as eye and notice witnesses, having knowledge of any discoverable matter. This provision would overrule those New York decisions holding that the work product rule, which would be retained intact in subdivision (c), applies to the names and addresses of witnesses located by an attorney in the course of an investigation conducted in preparation for trial. *See Zayas* vs. *Morales,* 45 A.D. 2d 610, 613 (2d Dept. 1974). A party making a request for information pursuant to subdivision (h) would, of course, be required to frame the request with a reasonable degree of specificity as to the discoverable matters with respect to which the request is being made. A bold request for information concerning "all persons having knowledge of any discoverable matter" would ordinarily be unreasonable.

Subdivision (i)

The CPLR does not contain a provision comparable to Fed. R. Civ. P. 26(e) explicitly requiring a party under certain circumstances promptly to supplement or amend responses to disclosure requests. New subdivision (i) would incorporate the substance of the federal rule, which, the Committee believes, establishes a reasonable balance between the need to maintain the integrity of responses to disclosure requests and the need to avoid imposing on a party a burdensome obligation to review and update on a continuing basis responses to disclosure requests. New subdivision (i) would apply to all disclosure devices including, as discussed above, a request made pursuant to new subdivision (d)(1).

Rule 3102 (c)

The requirement for the recording of depositions and documents obtained for an action involving title to real property would be deleted. The Committee believes that the inconvenience of such recording and the possibility that it might create an unjustified cloud on title to property outweigh what little benefit such recording might have in alerting title searchers to any claim involving title to the property in question.

Section 3103 (a)

Subdivision (a) would be amended to make it clear that any person who is the subject of a discovery request, whether or not a party or a witness, is entitled to move for a protective order.

Rule 3106 (d)

This provision would be amended to correct a purely verbal error, by changing the phrase "notices of subpoena" to "notice or subpoena", and by correcting "they" to "such person".

Rule 3108

The taking of a deposition upon written questions is an inexpensive method of conducting discovery and may be appropriate in a number of situations not recognized by Rule 3108 in its existing form. The proposed amendment would eliminate the "undesirable" limitations on the taking of a deposition upon written questions. See 3A Weinstein, Korn & Miller N.Y. Civ. Prac. 3108.02, 3108.03.

Rule 3113(a) (2)

The amendment would eliminate a formal discrepancy between federal and state practice created by the 1980 amendment to Fed. R. Civ. P. 28(a).

Rule 3116(a)

The amendment would in effect extend the 1978 amendment of subdivision (a) to eliminate the requirement that a deposition be signed by the officer before whom it was taken if the witness fails or refuses to sign it. The requirement, which is inconvenient to comply with if the officer is not readily located, serves no significant purpose, since the officer must in any event rely upon representations or statements of a party or the witness as to the fact that the latter failed or refused to sign the deposition and the reasons therefor.

Rule 3120(a)

The purpose of the requirement in Rule 3120(a) that a party designate the items he or she seeks to inspect should be to enable the party served with the notice to determine what items are requested and to enable the court to determine whether the requested items have been produced. *Cf.* Wright & Miller, *Federal Practice and Procedure* §2211 at 631. The present requirement that the requested items be "specifically" designated lends itself to a restrictive interpretation under which technical defects may frustrate reasonable discovery requests. In addition, a party frequently must conduct a deposition in order to obtain the information to designate the requested items with the required specificity. *See, e.g., King* v. *Morris,* 57A.D. 2d 530 (1st Dept. 1977). This result has been justified on the theory that the deposition may be necessary for proper resolution of objections to the discovery request. *Rios* v. *Donovan*, 21 A.D. 2d 409, 413-14 (1st Dept. 1964). The Committee believes that a party who can reasonably identify a requested item or category of items should not need to conduct a deposition in order to establish the existence and specific identities of the requested items. In most instances, the Committee believes, pretrial discovery will be condcuted more efficiently and effectively if a party can obtain materials for use in perparing for a deposition. If the party to whom the request is made objects on the ground that it is unduly burdensome, includes materials which are not discoverable, or is improper in some similar respect, the party should state the objections pursuant to Rule 3122 "rather than seek shelter behind a claim of insufficient designation." 8 Wright & Miller, *supra,* at 634.

Rule 3122

The amendment of Rule 3122 is intended to reduce the volume of motion practice arising out of disclosure procedures by eliminating the requirement that objections to requests for production of documents or other things or for physical or mental examinations be made by motion. The Committee believes that the notice procedure required by the amendment would encourage parties to resolve disputes concerning such requests without court intervention. In the event that a dispute is not so resolved, the party seeking disclosure may move for an order compelling disclosure pursuant to the proposed new Section 3124.

The proposed amendment to Rule 3122 also would enlarge the time for objecting to a disclosure request.

Section 3123(a)

By disposing of issues which are not a genuine subject of dispute, the request for an admission serves to eliminate unnecessary expenses and complications. The deletion of the clause "at the trial" in the first sentence of subdivision (a) would make it clear that a request for an admission may be used even if the parties contemplate settlement rather than trial or where the issue as to which an admission sought is one which is relevant to the case but not expected to arise at trial, such as an issue raised by pretrial motions, including motions relating to disclosure. The clause inserted in the third sentence of subdivision (a) is intended to improve the usefulness of requests for an admission by preventing a party from routinely denying a request on the ground of lack of knowledge when the information needed to form a definitive response is available with reasonable effort.

Rule 3124 (new)

The text of what is now Rule 3124 would be revised to achieve greater clarity and simplicity and to delete the requirement that a person move for a protective order in order to preserve objections to a disclosure request. This should encourage parties to resolve disputes over disclosure matters on their own without resort to the Court and also should serve to narrow the scope of motions regarding disclosure matters, since ordinarily the motion would be made as a motion to compel disclosure after the person from whom disclosure was sought had complied with so much of the disclosure request as to which no objection was raised.

The reference to the right of a party to obtain local remedies for failure to comply with a disclosure request would be deleted as unnecessary; the Committee does not intend to suggest that Section 3124 preempts other applicable law.

Section 3126

The words "failure" and "fails" would be substituted for "refusal" and "refuses" in order to obtain stylistic conformity within section 3126 and with proposed new section 3124. The amendment also would make it clear that failure to comply with a court order, even if not willful, may in appropriate circumstances be grounds for imposing one or more of the enumerated sanctions. The substitution of the clause "this article" for "notice duly served" would make it clear that a willful failure to disclose information within the meaning of section 3126 includes a willful failure to amend or supplement a response to a disclosure request as required under new subdivision (i) of section 3101.

Section 3127 (new)

The only practical way of reducing the volume of motion practice over disclosure matters is to require those who are responsible for improper disclosure requests or improper objections to or noncompliance with disclosure requests to compensate their adversaries for the costs and expenses of obtaining appropriate relief from the Court. The purpose of new section 3127 would be to make the awarding of costs and expenses, including attorney's fees, the rule rather than the exception. The Court would have discretionary power to direct submission of affidavits or to hold a hearing on the amount of attorney's fees to be awarded.

Section 3130 (1)

Subdivision (1) of section 3130 would be amended to delete a clause which, as was noted when it was added in 1979, *see* 3A Weinstein, Korn & Miller N.Y. Civ. Prac. ¶ 3130.02, perpetuates an unjustified distinction between negligence and wrongful death actions and other types of actions.

Rule 3132

The first sentence of Rule 3132 would be deleted as an unnecessary repetition of the first sentence of subdivision (1) of section 3130. The prescriptive period during which a plaintiff may not serve interrogatories upon a defendant would be revised to parallel the amendment of Rule 3106. The amendment also would delete, as an unnecessary formality, the requirement that a defendant obtain leave of court in order to serve interrogatories upon the plaintiff within five days of service of the summons and complaint, and would conform Rule 3132 to Rule 3106 by removing the clause permitting a party to obtain special priority through an *ex parte* motion.

Rule 3133

The amendment of Rule 3133 (coupled with the repeal of Rule 3134) would consolidate in one Rule present Rules 3133 and 3134. Paralleling the proposed amendment of Rule 3122, subdivision (a) of Rule 3133 would be amended to eliminate the requirement that an objection to an interrogatory be made by motion. Subdivision (b) of Rule 3133 would be deleted as unnecessary in light of the amendment of subdivision (a).

Rule 3134

Rule 3134 would be deleted since its provisions would be incorporated into the amended Rule 3133.

Section 3140

Section 3140 would be amended to correct a misspelling in the caption and to clarify that the responsibility for making procedural rules governing the exchange of appraisal reports is vested in the Chief Administrator of the Courts in conformity with Judiciary Law, section 212(2) (d). This amendment also is in furtherance of one of the purposes of this measure, the assurance of greater statewide uniformity in respect to disclosure procedures.

Part III - Miscellaneous Recommendations*

1. CPLR 214, 214-c (new)

The Committee recommends the enactment of new CPLR 214-c to provide for a two-year period of limitation for an action to recover damages for personal

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*NOTE: Contained herein are only those additional amendments initiated by the Committee, or acted upon by the Committee after outside request. Committee input lies behind other bills, usually in a consultative capacity.

injury or injury to property caused by a toxic or harmful substance or hazardous waste. The limitation period would commence on the date plaintiff discovered or, with reasonable diligence, could have discovered such injury and the cause thereof.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to the statute of limitations for action to recover damages from toxic or harmful substances.

Section 1. Section two hundred fourteen of the civil practice law and rules, as amended by chapter two hundred sixty-six of the laws of nineteen hundred eighty-one, is amended to read as follows:

§214. Actions to be commenced within three years: for non-payment of money collected on execution; for injury to property; for personal injury; for malpractice other than medical malpractice; to annul a marriage on the ground of fraud.

The following actions must be commenced within three years:

1. an action against a sheriff, constable or other officer for the non-payment of money collected upon an execution;

2. an action to recover upon a liability, penalty or forfeiture created or imposed by statute except as provided in sections 213 and 215;

3. an action to recover a chattel or damages for the taking or detaining of a chattel;

4. an action to recover damages for an injury to property, *except as provided in section 214-c.*

5. an action to recover damages for a personal injury except as provided in section 214-b, *214-c* and 215;

6. an action to recover damages for malpractice other than medical malpractice; and

7. an action to annul a marriage on the ground of fraud; the time within which the action must be commenced shall be computed from the time the plaintiff discovered the facts constituting the fraud, but if the plaintiff is a person other than the spouse whose consent was obtained by fraud, the time within which the action must be commenced shall be computed from the time, if earlier, that that spouse discovered the facts constituting the fraud.

§2. Such law and rules is amended by adding a new section two hundred fourteen-c to read as follows:

§214-c. Action for damages from toxic or harmful substances. An action to recover damages for personal injury or injury to property caused by a toxic or harmful substance or hazardous waste shall be barred unless instituted within two years of the date plaintiff discovered or with reasonable diligence could have discovered such injury and the cause thereof.

§3. An action to recover damages for a wrongful act, neglect or default causing death arising or resulting from a toxic or harmful substance or a hazardous waste shall be governed by section 5-4.1 of the estate, powers and trusts law.

§4. This act shall take effect immediately and shall apply in every action and proceeding hereafter commenced. Nothing herein contained shall be construed to revive any action or proceeding barred as of the effective date of this act because the period of limitation applicable under the law in effect prior hereto has expired.

Comment

This bill would add a new section 214-c to the CPLR to provide for a two-year statute of limitations which begins to run when a plaintiff discovers or with reasonable diligence could have discovered his or her injury and the cause thereof, where such injury was caused by contact with a toxic or harmful substance or hazardous waste. It would apply to personal injuries and injuries to property caused by any exposure to or contact with such substance or waste. Other technical amendments are included.

This bill would become effective upon enactment and be applicable to every action commenced after the effective date. However, no action previously barred by the existing statute of limitations would be revived.

Personal injuries and injuries to property caused by toxic or harmful substances or hazardous wastes often do not manifest themselves until many years after the last exposure. Under existing law, the statute of limitations begins to run at the time the cause of action accrues (CPLR 203[a]), which has been interpreted to mean from the date of the last exposure. *Schmidt v. Merchants Desp. Trans. Co.*, 270 N.Y. 287 (1936); *Schwartz v. Heyden Chemical Corp., 12 N.Y. 2d 212 (1963); Thornton v. Roosevelt Hosp.*, 47 N.Y. 2d 780 (1979); *Steinhardt v. Johns-Manville Corp.*, 54 N.Y. 2d 1008 (1981). The current three-year statute of limitations (CPLR 214) thus creates a severe injustice, as the time within which an action can be brought often expires before the potential plaintiff discovers or could have discovered his or her injuries and the cause thereof. This bill is intended to change the law as enunciated in that line of cases.

Many bills, with varying provisions, have been introduced in recent years which have as their purpose the creation of a statute of limitations which begins to run from the time of discovery rather than the time of last exposure.

The unfairness of the existing rule has been widely recognized. Thirty-six jurisdictions have adopted some form of time of discovery rule in these types of personal injury and property damage cases. In ten jurisdictions, the rule has been enacted by the Legislature; in the other 26 jurisdictions, a time of discovery rule has been adopted by means of judicial decision. However, the Court of Appeals has made it clear in *Thornton* and in *Steinhardt* that it is not prepared to adopt such a rule, but believes that any change should be made by the Legislature.

In *Martin* v. *Edwards Labs.*, 60 N.Y. 2d 417, 426 (1983), the Court of Appeals again "reaffirmed the rule that the time to sue for injuries resulting from inhalation, ingestion or injection of harmful substances runs from the last exposure, not from discovery of the injury." It is, therefore, up to the Legislature to act.

Basic fairness dictates that a cause of action based on an injury caused by a toxic or harmful substance of hazardous waste not be barred prior to the time the plaintiff becomes aware of the injury and its cause.

The Advisory Committee on Civil Practice studied this issue for many months before deciding to propose this bill. It carefully examined the various alternatives proposed in other bills which have been introduced, and reviewed the laws of other jurisdictions. Although some Committee members would have preferred a somewhat different time of discovery rule than that proposed, the Committee believes that it is time for New York to adopt a time of discovery rule. Other members of the Committee would have preferred a bill that also creates a time of discovery rule in wrongful death actions (in addition to actions for personal and property damage).

The Committee's proposed bill provides for a two-year statute of limitations that commences to run from the date of the discovery of the injury and its cause. It should be noted that the Committee's bill is not intended to reduce the current three-year statute of limitations in personal injury and property damage actions measured from the date of the accrual of the cause of action, *i.e.*, date of injury. Therefore, a plaintiff with such a cause of action would have the option of instituting the action within three years of his or her injury pursuant to CPLR 203(a) and 214, or within two years of the discovery of the injury and its cause pursuant to CPLR 214-c, whichever period is longer.

2. CPLR 308, 3215(e), (f)

The Committee recommends the repeal of the unnumbered last paragraph of CPLR 308, which in actions arising out of a consumer credit transaction requires the giving of additional notice before default judgment is taken. The Committee further recommends the transfer of that provision, clarified and improved, into CPLR 3215.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to additional notice of default judgment in an action arising out of a consumer credit transaction and to repeal certain provisions thereof relating thereto.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. The closing paragraph of section three hundred eight of the civil practice law and rules is REPEALED.

§2. Subdivision (e) of section thirty-two hundred fifteen of such law and rules, as amended by chapter three hundred forty-four of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(e) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316, and proof by affidavit made by the party of the facts constituting the claim, the default and the amount due. Where a verified complaint has been served it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or his attorney. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing the notice required by [section three hundred eight of the civil practice law and rules] *subdivision (f), where applicable,* shall also be filed [where such notice is required].

§3. Subdivision (f) of section thirty-two hundred fifteen of such law and rules, as amended by chapter seven hundred twenty of the laws of nineteen hundred sixty-eight, is amended by adding a new paragraph three to read as follows:

3. (i) When a default judgment based upon non-appearance is sought against a natural person in an action arising out of a consumer credit transaction, as defined in subdivision (f) of section 105, an affidavit shall be submitted that additional notice has been given by or on behalf of the plaintiff at least twenty days before the entry of such judgment, by mailing a copy of the summons by first-class mail to the defendant at his place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from an attorney or concerns an alleged debt. In the event such mailing is returned as undeliverable by the post office before the entry of a default judgment, or if the place of residence of the defendant is unknown, a copy of the summons shall then be mailed in the same manner to the defendant at the defendant's place of employment if known; if neither the place of residence nor the place of employment of the defendant is known, then the mailing shall be to the defendant at his last known residence.

(ii) The additional notice may be mailed simultaneously with or after service of the summons on the defendant. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, failure of the defendant to receive the additional notice shall not preclude the entry of default judgment.

(iii) This requirement shall not apply to cases in the small claims part of any court or to any summary proceeding to recover possession of real property or to actions affecting title to real property.

§4. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

REPEAL NOTE: The last undesignated paragraph of CPLR 308, to be repealed by this bill, related to the additional notice required to take a default judgment in an action against a natural person based upon non-payment of a contractual obligation. New proposed paragraph 3 of subdivision (f) of CPLR 3215 governs the additional notice requirement in consumer credit transactions, and supersedes the repealed provision.

Comment

This proposal would clarify, improve and relocate the CPLR provisions which mandate that a notice of default judgment, in addition to that contained in a summons, be served on a defendant who is a natural person in an action arising out of a consumer credit transaction.

The proposal does not alter in any essential aspect the protection against sewer service which the present law, enacted by Chapter 344 of the Laws of 1977, provides.

The language of the 1977 legislation, although salutary in intent, has given rise to technical problems. The procedure would be improved by the recommended changes, as follows:

1. The application of the provision to actions for hanged nonpayment of a contractual obligation would be changed to those arising out of a consumer credit transactions. This change is consistent with the purpose of the provision to protect against sewer service, which is rare in contract actions except those arising from consumer credit transactions.

2. Actions affecting title to real property would be excepted. Title companies are justly apprehensive that, in such actions, the requirement of additional notice could be troublesome in that inadvertent failure to do so allows vacatur of the default judgment, thus generating challenges to title many years after entry of judgment.

3. In conformance with general practice, provision would be made for service of the additional notice by the employee of an attorney, as well as by the party or his attorney, as at present.

4. It would be made clear that the additional notice may be mailed out not only after, but also simultaneously with service of process,

5. Where there has been compliance with the additional notice requirements, failure of the defendant to receive such notice shall not preclude entry of, or invalidate, the default judgment. Without this provision, the plaintiff would be penalized unfairly by being prevented from obtaining a judgment where it is impossible to serve the additional notice on the defendant.

This measure would relocate the provisions governing default notices, now located in CPLR 308 (service of process), to a new paragraph 3 of CPLR 3215(f) (notice requirements for entry of default judgment), where it more logically belongs. CPLR 3215(e) would be amended to correct an obsolete cross-reference to CPLR 308; and a number of other minor verbal and mechanical improvements also would be made.

The proposal succeeded in passing either one house or the other of the Legislature each session since first submission in 1979, but never both houses at the same session, although no policy objections to the bill have been made known to the Advisory Committee on Civil Practice.

3. CPLR 2306(a)

The Committee recommends the amendment of CPLR 2306(a) to specify that a reproduction of an institutional record under subpoena must be in the form of a full-sized legible copy and, further, in order to allow time for preparation, the Committee recommends an appropriate extension of the time provided after service of the notice to produce.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to reproduction of hospital records.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section twenty-three hundred six of the civil practice law and rules is hereby amended to read as follows:

(a) Transcript or reproduction. Where a subpoena duces tecum is served upon a hospital, or upon a department or bureau of a municipal corporation or of the state, or an officer thereof, requiring the production of records relating to the condition or treatment of a patient, a transcript or *a full-sized legible* reproduction certified as correct by a superintendent or head of the hospital, department or bureau or his assistant, or the officer, may be produced unless otherwise ordered by a court. Such a subpoena shall be served at least [twenty-four hours] *three days* before the time fixed for the production of the records unless otherwise ordered by a court.

§2. This act shall take effect on the first day of January next succeeding the day on which it shall have become law.

Comment

The proposed amendment is designated to prevent the production, under subpoena, by a private or public institution, of a copy of an original record which, because of the copy's reduced size or illegibility, cannot be used for its intended purpose. The only alternative the present provision offers is the production of a transcript which, even if possible, may entail undesirable time or expense. The recommended amendment, on the other hand, by specifying that the reproduction must be a full-sized legible copy of the original record, will ensure that the reproduction readily can be utilized.

In order to allow for the relative increase in time in the preparation of such a reproduction, the bill would effect a modest extension of the time period for complying with the notice to produce, at present fixed at twenty-four hours, to three days.

4. CPLR 3041, 3042

The Committee recommends the amendment of CPLR 3041 and CPLR 3042 to streamline bill of particulars practice, impeded at present by proliferating motions and other widespread abuses, which the proposals are designed to eliminate.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to bill of particulars.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty hundred forty-one of the civil practice law and rules is amended to read as follows:

§3041. Bill of particulars in any case. Any party may require any other party to give a bill of particulars of [his] *such party's* claim, or a copy of the times of the account alleged in a pleading. *As used in this article, the term "bill of particulars" shall include "copy of the items of an account" wherever appropriate.*

§2. Rule thirty hundred forty-two of such law and rules, as subdivision (a) thereof was amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, and as subdivision (g) thereof was amended by chapter two hundred ninety-seven of the laws of nineteen hundred seventy-eight, and as subdivision (h) thereof was inserted by chapter two hundred ninety-six of the laws of nineteen hundred seventy-eight, is amended to read as follows:

Rule 3042. Procedure for bill of particulars. (a) [Notice. A request for a bill of particulars or a copy of the items of an account shall be made by serving a written notice stating the items concerning which such particulars are desired. If the party upon whom such notice is served is unwilling to give such particulars, in whole or in part, he may move to vacate or modify such notice within ten days after receipt thereof. The notice or supporting papers shall specify clearly the objections and the grounds therefor. If no such motion is made, the bill of particulars shall be served within twenty days after the demand therefor, unless the county shall otherwise direct.] *Demand. A demand for a bill of particulars shall be made by serving a written demand* *stating the items concerning which the particulars are desired. The party served with the demand, within twenty days of the service thereof, shall serve a bill of particulars complying with the demand, or move to vacate or modify the demand, specifying the objections and the grounds therefor. A party moving to modify the demand shall attach moving papers a copy of the proposed bill, complying with the items to which no objection is made.*

(b) Motion. Instead of proceeding by demand, [the] *a* party may move for a bill of particulars [, a copy of the items of account] in the first instance.

(c) Preclusion for failure to supply bill. [In the event that] *If* a party fails *timely* to furnish a bill of particulars [, or copy of the items of an account the court, upon notice, may preclude him for giving evidence at the trial of the items of which particulars have not been delivered] *or to move to vacate or modify the demand, the demanding party may serve a written notice or preclusion by personal delivery or by registered or certified mail requesting that the demand be complied with within thirty days after service of the notice. The notice shall refer to this rule and shall state that if the party fails to comply therewith the party shall be automatically precluded without an application to the court. If the party served with the notice fails, within thirty days after service thereof, to furnish a bill, the party shall be precluded from giving evidence at trial of the particulars not furnished.*

(d) [Preclusion of defective bill. Where a bill of particulars, or copy of the items of an account, is regarded as defective or insufficient by the party upon whom it is served, the court, upon notice, may make an order of preclusion or directing the service of a further bill. In the absence of special circumstances, a motion for such relief shall be made within ten days after the receipt of the bill claimed to be insufficient. *Relief from automatic preclusion. A party precluded under subdivision (c) of this rule may move to vacate the default within sixty days after service of the notice of preclusion, upon a showing of justifiable excuse for the default, and submission of an affidavit of merits and the proposed bill.*

(e) [Conditional order of preclusion. A preclusion order may provide that it will be effective unless a proper bill is served within a specified time.] *Preclusion for defective bill. Where a bill is defective or insufficient, the court, upon motion, may order preclusion or direct the service of a further bill. In the absence of special circumstances, a motion for such relief shall be made within thirty days after receipt of the bill claimed to be defective or insufficient.*

(f) [Affidavits. Affidavits to be used in support of or in opposition to a motion under this rule may be made by a party or his attorney.

(g)] Amendment. In any action or proceeding in a court in which a note of issue is required to be filed, a party may amend [his] *the* bill of particulars once as of course [before trial,] prior to the filing of a note of issue.

[(h)] *(g)* Costs. Upon any motion, except under subdivision (b), costs may be imposed.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The proposed amendment of CPLR 3041 and CPLR 3042 is designed to save the time of courts and litigants, to curtail pronounced and widespread abuses which have arisen under present law, and otherwise to improve this extensively used tool. The Committee was aided in its endeavors by the Honorable William P. McCooe, Justice of the Supreme Court, who, as consultant to the Committee on this project, helped prepare the original draft and assisted the Committee in reaching a final proposal.

Under the present provisions of CPLR 3042, many attorneys serve a bill of particulars only after being served with a conditional order of preclusion. Initial requests for bill of particulars routinely are ignored. Some attorneys routinely serve demands that are so prolix and burdensome as to effectively harass opponents. Still other attorneys routinely serve patently defective bills.

The courts are inundated with motions to preclude for failure timely to serve bills of particulars, and with motions relating to disclosure generally. During 1980, for example, Special Term, Part 1-A, of the Supreme Court in New York County, processed 25,242 motions relating to bills of particulars, disclosure, and statements of readiness. Motions relating to bills of particulars are adjourned frequently, and the final determination is generally a conditional order of preclusion which may or may not be obeyed. This practice wastes judicial resources and burdens litigants.

The language of CPLR 3042 is streamlined by making a minor amendment to CPLR 3041. "Bill of particulars" is defined to include "items of an account or a copy thereof," thus eliminating the need for numerous references in CPLR 3042 to items of an account.

The following revisions are contained in CPLR 3042:

Whereas the party served with a demand for a bill of particulars now must comply with the demand within 20 days of service or move to vacate or modify the demand within 10 days thereof, this bill would amend subdivision (a) to simplify the procedure by setting a uniform period of 20 days in each instance, and the party moving to modify the demand would be required to attach to the moving papers a copy of the proposed bill, complying with the items to which there is no objection.

Subdivision (b), which allows a party seeking a bill of particulars to proceed by motion instead of demand is retained although it is seldom utilized. There may be some circumstances in which proceeding by motion initially is appropriate.

Subdivision (c) would be amended to create a new automatic preclusion procedure applicable to a party who fails timely either to comply with the demand for a bill of particulars or to move to vacate or modify. In the absence of any such timely action, the demanding party would be authorized to put the defaulting party on written notice that the bill has not been served and that an automatic preclusion will take effect thirty days after service of the notice if the bill is not received. The written notice must be served by personal delivery or by registered or certified mail. Additionally, the notice is required to refer to this Rule so that the defaulting party may be alerted to the statutory sanction for default in serving the bill.

This notice and automatic preclusion procedure provided for in amended subdivision (c) is new, and is the principal difference between the proposed Rule 3042 and present Rule 3042.

A party who is unable to comply with the demand should move in a timely manner under subdivision (a) to prevent the imposition of any sanction. A party would not be permitted to move to vacate or modify a demand after receipt of the preclusion notice but may move to vacate the default within 60 days after service of the notice of preclusion. Such relief could be afforded only upon a showing of justifiable excuse for the default, the submission of affidavit of merits and the proposed bill of particulars. Relief from automatic preclusion would be governed by a new subdivision (d).

Present subdivision (d) governing preclusion for a defective bill is retained with some revision as new subdivision (e).

Present subdivision (e), governing the conditional order of preclusion, is deleted since that procedure is superseded by this revision. Present subdivision (f), governing affidavits, is eliminated as unnecessary because general rules governing motions and affidavits are adequate and because an affidavit of merits, to be required by new subdivision (d), should be made by a party, not an attorney.

Present subdivision (g) (amendment) would be redesignated as new subdivision (f) and slightly reworded for the sake of clarification.

Present subdivision (h) (costs) would be redesignated as new subdivision (g).

Nothing in the revision of this Rule precludes parties or their attorneys from extending by written stipulation the time for serving any notice, motion or bill of particulars.

The extension of time to 20 days to move to modify or vacate the demand, together with the potential for automatic preclusion, should substantially reduce the number of motions required in respect to bills of particulars, and significantly improve the administration of justice.

Revision of Rule 3042 also provides an opportunity to make minor grammatical and technical changes in the wording of various provisions. These changes are not intended to have any substantive effect.

5. CPLR 4102(a)

The Committee recommends that CPLR 4102(a), relating to the demand for trial by jury, be amended to provide that a party may not withdraw a demand for trial by jury without the consent of other parties, even where another party and filed a note of issue without a jury demand.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to the withdrawal of a demand for trial by jury.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section forty-one hundred two of the civil practice law and rules, as amended by chapter nineteen of the laws of nineteen hundred sixty-eight, is amended to read as follows:

(a) Demand. Any party may demand a trial by jury of any issue of fact of right by a jury, by serving upon all other parties and filing a note of issue containing a demand for trial by jury. Any party served with a note of issue not containing such a demand may demand a trial by jury by serving upon each party a demand for a trial by jury and filing such demand in the office where the note of issue was filed within fifteen days after service of the note of issue. A demand shall not be accepted for filing unless a note of issue is filed in the action. If no party shall demand a trial by jury as provided herein, the right to trial by jury shall be deemed waived by all parties. [A party may not] *Notwithstanding that any party has filed a note of issue without a demand for a trial by jury, no party may* withdraw a demand for trial by jury without the consent of the other parties.

§2. This act shall take effect on the first day of January next succeeding the date in which it shall have become a law.

Comment

It has been brought to the attention of the Committee that there are occasions where a plaintiff files a note of issue without demanding a jury and, thereupon, the defendant files a jury demand. In some such instances the defendant later may withdraw that demand, perhaps on the eve of trial or even after a jury panel has been selected. Thus, a defendant may secure the benefit of substantial delay occasioned by the jury demand and wait until the last minute to decide whether trial by jury is likely to be beneficial to him, retaining until that time a unilateral right to keep or disband a jury.

While CPLR 4102(a) nominally would seem to preclude this tactic by requiring the consent of all parties to the withdrawal of a jury demand, the courts have carved an exception to the consent requirement. In *Gonzalez* v. *Concourse Plaza Syndicates, Inc.*, 41 N.Y. 2d 414 (1977), the Court of Appeals held that the consent of a party to the withdrawal of a jury demand is not required where that party previously had filed a note of issue waiving the right to trial by jury.

The courts have criticized the tactic permitted by the interpretation of CPLR 4102(a) in the *Gonzalez* case. In *Wright* v. *Centurion Investigations*, 113 Misc. 2d 150 (1982), the Appellate Term refused to allow a plaintiff to file a jury demand *nunc pro tunc*, where the plaintiff had not demanded a jury in the note of issue and the defendant had thereafter filed and later withdrew a jury demand. The concurring opinion in that case stated:

> I concur with the result based upon the present state of the law. However, I deplore the "gamesmanship" practiced by defendants-appellants.... Appellants filed a jury demand, thereby delaying the trial of the action. Thereafter, as the matter was about to be tried and the jury selection process had begun, appellants sought to withdraw their jury demand over plaintiff's objections.
>
> Permitting a defendant to withdraw the demand at that point places a plaintiff at a decided disadvantage. Defendant, if satisfied with the prospective panel, will proceed to a trial by jury, whereas if he is not satisfied all he need do is withdraw his demand and obtain a nonjury trial. Such tactics should not be countenanced and it is suggested legislation be enacted to remedy the situation.

The Advisory Committee recommends that the statute be revised to provide that a party may not withdraw a demand for trial by jury without the consent of the other parties, regardless of whether another party previously filed a note of issue without a demand for trial by jury.

6. CPLR 5250

The Committee recommends the repeal of CPLR 5250 in order to terminate the availabiliy of civil arrest as an adjunct in the enforcement of money judgments, thereby harmonizing the statute with Chapter 409 of the Laws of 1979, which abolished the analogous provisional remedy.

Recommendation

AN ACT

To Repeal section fifty-two hundred fifty of the civil practice law and rules, in relation to civil arrest of judgment debtors.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-two hundred fifty of the civil practice law and rules is REPEALED.

§2. This act shall take effect immediately.

REPEAL NOTE: Section fifty-two hundred fifty of the civil practice law and rules, proposed to be repealed by this act, relates to civil arrest of judgment debtors.

Comment

This proposal would repeal section 5250 of the CPLR to abolish the remedy of civil arrest in connection with the enforcement of money judgments. Since the remedy of civil arrest in connection with the enforcement of money judgments, provided for by CPLR 5250, is analogous to the provisional remedy of civil arrest abolished by Chapter 409 of the Laws of 1979, similar policy considerations militate towards its abolition. In addition, repeal of CPLR 5250 would have a negligible impact on civil practice in this state, since the arrest which it authorizes is infrequently sought and rarely, if ever, granted. Finally, the Advisory committee on Civil Practice believes that the provision is of doubtful constitutionality. *See, Deary* v. *Guardian Loan Co., Inc.*, 534 F. Supp. 1178 (S.D.N.Y. 1982).

7. CPLR 5519 (a) (e)*

The Committee recommends that CPLR 5519(a) and CPLR 5519(e), which regulate, respectively, the initiation and continuation of the stay of execution on appeal, without court order, through successive levels of appellate tribunals, be amended to complete, integrate and clarify a basic appellate procedure.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to stay on appeal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of subdivision (a) of section fifty-five hundred nineteen of the civil practice law and rules, as such subdivision was amended by chapter seven hundred forty-four of the laws of nineteen hundred sixty-five, is amended to read as follows:

(a) Stay without court order. Service upon the adverse party of a notice of appeal , *a motion for permission to appeal,* or an affidavit of intention to move for permission to appeal stays all proceedings to enforce the judgment or order appealed from pending the appeal or determination on the motion for permission to appeal where:

§2. Subdivision (e) of section fifty-five hundred nineteen of such law and rules, as amended by chapter two hundred thirty-nine of the laws of nineteen hundred seventy-nine, is amended to read as follows:

(e) Continuation of stay. If the judgment or order appealed from is affirmed or modified, the stay shall continue for five days after service upon the appellant of the order of affirmance or modification with notice of its entry in the court to which the appeal was taken. [If an appeal is taken or a motion is made for permission to appeal from such an order, before the expiration of five days, the stay shall continue until five days after service of notice of the entry of the order determining such appeal or motion.] *If a notice of appeal, or a motion for permission to appeal, or an affidavit of intention to* move for permission to appeal from such order is served upon the adverse party before the expiration of the five days, the stay shall, unless the order determining the appeal or motion otherwise provides, continue until five days after service of the order determining the appeal or denying the motion with notice of entry; where the motion is granted, the stay shall continue until five days after the service of the order determining the appeal with notice of entry unless that order otherwise provides. Where the appeal, whether as of right or by leave, is one determined by the court of appeals, the stay shall continue until five days after the appeal is determined. The failure of a party possessing an automatic stay under subdivision (a) of this section to obtain a continuation of such stay pursuant to this subdivision shall not preclude that party from thereafter obtaining a new stay by again complying with the applicable provisions of subdivision (a). If after serving an affidavit of intention to move for permission to appeal, under this subdivision or subdivision (a), the party who seeks permission does not serve and file such motion within thirty days after service upon him of the order sought to be appealed from with notice of entry, the stay shall expire at the close of such thirtieth day. [When a motion for permission to appeal is involved, the stay, or any other stay granted pending determination of the motion for permission to appeal, shall:

(i) if the motion is granted, continue until five days after the appeal is determined; or

(ii) if the motion is denied, continue until five days after the movant is served with the order of denial with notice of entry.]

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This proposal would amend CPLR 5519(a) (Stay without court order) and CPLR 5519(e) (Continuation of stay), to complete, integrate and otherwise improve the provisions on stay of execution of judgment pending appeal, without court order, through successive tiers of appellate courts. Although intended to mesh with each other in spelling out a continuing process marked by symmetry, precision and clear and necessary detail, the present provisions fall short of the mark, calling for correction. This bill would start by striking the second and third sentences of CPLR 5519(e), clearing the way for an improved text as described hereafter.

First, the proper balance would be effected as between CPLR 5519(a) and CPLR 5519(e), by naming in each the full array of procedures by which the stay of execution on appeal is initiated and then continued. CPLR 5519(a), which provides for initiation of the stay by service of a notice of appeal or an affidavit of intention to move for permission to appeal, would be amended to add the motion for permission to appeal. No other amendment of CPLR 5519(a) is required. CPLR 5519(e), which fails to designate the affidavit of intention to move as a device for continuing the stay, would be completed by striking the second sentence and adding a new one naming all three devices, the notice of appeal, the motion for permission to appeal and the affidavit of intention to move for permission to appeal. Left intact is the first sentence of CPLR 5519(e) which provides that the original stay continues for five days after service upon the applicant of the order of affirmance or modification with notice of entry in the court to which appeal was taken.

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*Legislation to implement this recommendation was not submitted in 1985, pending further review. Submission of a final legislative proposal in 1986 is anticipated.

Second, the existing provisions of the second and third sentences of CPLR 5519(e) would be clarified, integrated, focused and completed in the proposed new second sentence thereof, which would replace the other two, to provide that: (a) the automatic stay, where appeal is further pursued to a higher appellate tribunal, continues until five days after service of the order determining the appeal, or denying the motion for permission to appeal, with notice of entry; and where the motion is granted, the stay shall continue until five days after service of the order determining the appeal with notice of entry; (b) the court may provide otherwise than as prescribed with respect to the duration of the continued stay in all the above instances, a proposal which would, in the interest of consistency, extend a practical measure of flexibility beyond its present unwarranted restriction to the instance of the motion for permission to appeal. Finally, a related new third sentence would provide that where the appeal, whether as of right or by leave, is one determined by the Court of Appeals, such stay shall continue until five days after the appeal is "determined," thereby giving notice to unique Court of Appeals practice where a remittitur rather than an order is issued.

Third, to lay to rest a recurring argument on appeal that an appellant loses any right to a stay initiated under CPLR 5519(a) when he or she subsequently fails to take a required action under CPLR 5519(e) to continue such stay, a fourth sentence would be added to CPLR 5519(e) expressly to clarify that the automatic stay originally obtained under CPLR 5519(a), on first level appeal, may still be resurrected, on further appeal, by taking timely and appropriate action under CPLR 5519(a).

Fourth, since neither CPLR 5519(a) nor CPLR 5519(e) establish the time at which the stay expires when an affidavit of intention to move for permission to appeal is served, but no motion for permission to appeal is made, a fifth sentence would be added to subdivision (e), and therein made applicable also to subdivision (a), that where such affidavit is served, but no such motion made, the stay will expire at the close of the thirtieth day after the order sought to be appealed from with notice of entry is served. One consequence of such added language would be that where appeal by permission to a higher level appellate tribunal is involved, under CPLR 5519(e), the appellant would be able to use, as he or she now can under CPLR 5519(a) on first-level appeal, the affidavit method, pursuant to which five days would be provided for service of the affidavit and thirty days for preparation, filing and service of motion papers, and continuance of stay, as opposed to five days for motion papers and stay under the existing provisions. The proposal would accord with CPLR 5513(b) (time to move for permission to appeal), would frequently better serve the interests of justice and would equalize first and second-level appeals in this respect.

The foregoing proposals would better integrate CPLR 5519(a) and CPLR 5519(e), as well as adding the clarity, economy, cohesion, scope and detail required for full effectiveness.

8. CPLR 5601(d); 5602(a)(1)(ii)*

The Committee recommends that CPLR 5601(d) and 5602(a)(1)(ii), which govern appeal to the Court of Appeals as of right or on consent, respectively, based on a nonfinal order of the Appellate Division, be amended so that an appeal, whether as of right or on consent, may be had directly from an arbitration award.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to appeals to the court of appeals of a final arbitration award bringing up for review the prior nonfinal order of the appellate division affecting such award

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (d) of section fifty-six hundred one of the civil practice law and rules is amended to read as follows:

(d) Based upon [non-final] *nonfinal* determination of appellate division. An appeal may be taken to the court of appeals as of right from a final judgment entered in a court of original instance [or], from a final determination of an administrative agency *or from a final arbitration award*, or from an order of the appellate division which finally determines an appeal from such a judgment or determination, where the appellate division has made an order on a prior appeal in the action which necessarily affects the judgment [or], determination *or award* and which satisfies the requirements of subdivision (a) or of paragraph one of subdivision (b) except that of finality.

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*Legislation to implement this recommendation was not submitted in 1985, pending further review. Submission of a final legislative proposal in 1986 is anticipated.

§2. Paragraph one of subdivision (a) of section fifty-six hundred two of such law and rules, as amended by chapter three hundred forty-two of the laws of nineteen hundred sixty-seven, is amended to read as follows:

1. in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims [or], an administrative agency *or an arbitration*,

(i) from an order of the appellate division which finally determines the action and which is not appealable as of right, or

(ii) from a final judgment of such court [or], final determination of such agency *or final arbitration award* where the appellate division has made an order on a prior appeal in the action which necessarily affects the final judgment [or], determination *or award* and the final judgment [or], determination *or award* is not appealable as of right pursuant to subdivision (d) of section 5601; and

§3. This measure, which would have no measurable effect on the state budget, would take effect on the first day of January next succeeding the date on which it shall have become a law and would apply to appeals perfected on or after the effective date of this act.

Comment

It has been brought to the attention of the Committee that the failure of CPLR 5601(d) and CPLR 5602(a)(1)(ii) to specify an arbitrator's award results in inequitable foreclosure of appellate review in certain instances.

This measure would amend CPLR 5601(d) and CPLR 5602(a)(1)(ii) which govern, respectively, appeal as of right and appeal on consent to the Court of Appeals from a final judgment of a specified court of original instance or a final determination of an administrative agency, thereby raising for review the prior nonfinal order of the Appellate Division necessarily affecting such judgment or determination. The bill would interpolate in each of the cited provisions the term "final arbitration award".

Because the arbitration scheme is not contemplated by the cited provisions, an appellant may be foreclosed from such review in the Court of Appeals in certain circumstances. Where an Appellate Division order remits the matter to the same or different arbitrator, absent a stipulation for judgment absolute under CPLR 5601(c), such order is not appealable to the Court of Appeals because it does not finally determine the proceeding. *Matter of Chusuk, Ltd. [Lane Bryant Inc.]*, 63 N.Y.2d 603 (1984). Such review under CPLR 5601(d) or CPLR 5602(a)(1)(ii) will not lie on appeal from the final arbitration award because such an award is not specified in the cited provisions. *Matter of Ford v. CSEA*, 62 N.Y.2d 799 (1984). Nor does such review lie on appeal from an order in a second Article 75 proceeding brought to review the new arbitrator's award because the prior nonfinal order of the Appellate Division arose in a separate proceeding. *Matter of Local 345 of the Retail State Employees Union [Heinrick Motors, Inc.]* 61 N.Y.2d 900 (1984).

The insertion of "final arbitration award" in CPLR 5601(d) would allow direct appeal as of right to the Court of Appeals of such arbitration award, thereby raising the prior nonfinal order of the Appellate Division which necessarily affected that award. Such appeal could be taken as of right only where the prior nonfinal order satisfies the requirements of CPLR 5601(a) or (b) except that of finality. Where this is not the case, such appeal must be by permission and therefore CPLR 5602(a)(1)(ii) likewise would be amended by this bill to include "final arbitration award".

The proposed amendment would close the present statutory gap by allowing a direct appeal to the Court of Appeals from the arbitration award, the prior nonfinal order of the Appellate Division affecting the award being brought up for review. This is needed in view of increasing resort by litigators to the arbitral process, which would result in an accelerating recurrence of inequitable foreclosure of appellate review in the specified instances unless the proposal is enacted.

9. CPLR 6313(a)

The Committee recommends that CPLR 6313(a) be amended to regularize the giving of notice, if only informal, on an application for a temporary restraining order, except upon dispensation of the court for a compelling reason, which must be recited in the order.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to notice of motion for temporary restraining order.

The People of the State of New York, represented in

Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section sixty-three hundred thirteen of the civil practice law and rules, as amended by chapter two hundred thirty-five of the laws of nineteen hundred eighty-two, is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. *If the circumstances are such that notice, even if only by telephone or other informal means, is practicable and would not defeat the purpose of the order, the court shall direct that it be given; and if the court finds otherwise, it shall state in the order the reasons for dispensing with notice.* Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or municipal corporation of the state to restrain the performance of statutory duties.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This measure would amend subdivision (a) of section 6313 of the CPLR to provide that a court, before granting an application for a temporary restraining order upon a motion for a preliminary injunction, must determine whether notice of the application is practicable and would not defeat the purpose of the order. If the court finds notice to be practicable, it shall direct that it be given; if not, it may grant the order without notice and shall state in the order the reasons for dispensing with notice.

The aim of the preliminary injunction is to preserve the status quo between parties to litigation, pending final judgment. The aim of the temporary restraining order is similar but far more limited in scope. An interim measure, it seeks to preserve the status quo while application is being made for a preliminary injunction.

Given this function it is frequently assumed that each instance of an application for a temporary restraining order is one in which the urgency of the interim injunctive relief being sought is too great to allow for time spent to notify the other side. The Committee has been advised, however, that the experience of most judges suggests that while there is occasionally a showing of an exigency warranting the complete dispensing of such notice, many cases involve no such urgency and no prejudice will ensue to any party where steps are taken to give notice of the application for the order. Accordingly, this measure provides that the need and feasibility of giving notice be determined by the court on a case-by-case basis. Where the giving of notice, even if by the most informal means, is practicable and will not defeat the purpose of the order, the court shall direct that it be given. Where it is not practicable, or where, even if practicable, there is a significant chance that a party, upon notification of the application for a temporary restraining order, will forthwith do precisely that which the order is being sought to prevent, the court may dispense with notice. It must, in such event, however, articulate in the order the reason therefor.

10. CPLR 7502(c)

The Committee proposes to add subdivision (c) to CPLR 7502 to authorize the court to allow use of the provisional remedies of attachment and preliminary injunction in arbitration.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to use of provisional remedies in arbitration.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred two of the civil practice law and rules is hereby amended to read as follows:

§7502. Applications to the court; venue; statutes of limitation; *provisional remedies.*

(a) Applications to the court; venue. A special proceeding shall be used to bring before a court the first application arising out of an arbitration controversy which is not made by motion in a pending action. The proceeding shall be brought in the court and county specified in the agreement; or, if none be specified, in a court in the county in which one of the parties resides or is doing business, or, if there is no such county, in a court in any county; or in a court in the county in which the arbitration was held. All subsequent applications shall be made by motion in the pending action or the special proceeding.

(b) Limitation of time. If, at the time that a demand for arbitration was made or a notice of intention to arbitrate was served, the claim sought to be arbitrated would have been barred by limitation of time had it been asserted in a court of the state, a party may assert the limitation as a bar to the arbitration on an application to the court as provided in section 7503 or subdivision (b) of section 7511. The failure to assert such bar by such application shall not preclude its assertion before the arbitrators, who may, in their sole discretion, apply or not apply the bar. Except as provided in subdivision (b) of section 7511, such exercise of discretion by the arbitrators shall not be subject to review by a court on an application to confirm, vacate or modify the award.

(c) Provisional remedies. The supreme court in the county in which an arbitration is pending, or, if not yet commenced, in a county specified in subdivision (a), may entertain an application for an order of attachment or for a preliminary injunction in connection with an arbitrable controversy, but only upon the ground that the award to which the applicant may be entitled may be rendered ineffectual without such provisional relief. The provisions of articles 62 and 63 of this chapter shall apply to the application, including those relating to undertakings and to the time for commencement of an action (arbitration shall be deemed an action for this purpose) if the application is made before commencement, except that the sole ground for the granting of the remedy shall be as stated above. The form of the application shall be as provided in subdivision (a).

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This measure would amend CPLR 7502, which governs application to the court in arbitration, to add thereto a new subdivision (c) to be entitled "Provisional remedies", to authorize the court to permit, in conjunction with an arbitration, the provisional remedies of attachment and preliminary injunction when shown to be needed to preserve the efficacy of a potential arbitral award.

The need often arises to protect the status quo while an arbitration is pending, just as it does when a litigation is pending. The availability of provisional remedies in conjunction with an arbitration has been a source of dispute under the CPLR, where arbitration is not considered a "special proceeding". Under the Civil Practice Act (§1459), which the CPLR superseded in 1963, an arbitration was treated as a special proceeding and, thus, there was less difficulty in permitting the use of provisional remedies in connection with arbitrations.

The Committee recommends that the court be authorized to entertain application for the remedies of attachment (CPLR Article 62) and preliminary injunction (Article 63) when shown to be needed to preserve the efficacy of a potential arbitral award. An April 30, 1982, report by the Subcommittee on the Advisability and Availability of Provisional Remedies in the Arbitration Process of the Committee on Arbitration of the Association of the Bar of the City of New York includes a survey of the area and recommends legislation to permit use of provisional remedies in arbitration proceedings. See also the report of the Committee on Arbitration and Alternative Dispute Resolution of the Association of the Bar of the City of New York, entitled *The Advisability and Availability of Provisional Remedies in the Arbitration Process,* The Record at p. 625, December, 1984.

The only provisional remedies made available by this proposal are attachment and preliminary injunction (which would of course include the temporary restraining order). Receivership (Article 64) and lis pendens (Article 65) would not be available in connection with an arbitration. The sole ground for the grant of either an attachment or preliminary injunction, moreover, is that the award the applicant is seeking in arbitration "may be rendered ineffectual" without such relief.

The application for the authorized provisional remedies would be made to the Supreme Court. If the arbitration is pending when the application is made, it is made in the county of the arbitration's pendency. If the arbitration has not yet been commenced, the application would be made in a county specified in the existing subdivision (a) of CPLR 7502.

When an attachment is sought before an action is commenced, there is a requirement that the action be commenced within 60 days after the attachment is granted. (CPLR 6213). The same requirement would apply to the commencement of the arbitration if the granting of the attachment precedes it. Also retained are the bonding requirements of Articles 62 and 63, so that a party obtaining the remedy in conjunction with an arbitration would not be relieved of any liabilities that might apply in a litigated case.

The Advisory Committee notes that there is no inconsistency between the proposed amendment and the decision of the Court of Appeals in *Cooper* v. *Ataliers de la Motobecane, S.A.*, 57 N.Y. 2d 408 (1982), where a pre-arbitration attachment was disallowed in a matter involving international litigants governed by the United Nations Convention in Recognition and Enforcement of Foreign Arbitral Awards. The amendment would not affect proceedings governed by such international agreements.. Moreover, the amendment, by providing the preliminary relief of attachment or injunction *only* if the arbitration award might otherwise be rendered ineffectual, is designed to make the domestic arbitration remedy more efficacious, and therefore, in the Committee's view, accords with the spirit of the *Cooper* decision.

11. CPLR 7503

The Committee recommends the enactment of CPLR 7503(d) to direct that the trial of issues of fact arising on an application to compel or stay on arbitration be without a jury.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to the trial of issues of fact in respect to arbitration.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred three of the civil practice law and rules is amended by adding thereto a new subdivision, to be subdivision (d), to read as follows:

(d) Issues of fact. Issues of fact arising on an application under this section shall be tried by the court without a jury.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

The Committee makes this recommendation unanimously, but with decidedly mixed emotions.

The purpose is to facilitate dispute resolution. It is not consistent with that purpose to permit one party to an ostensibly arbitrable dispute to delay the arbitral process by interposing objections to arbitration and then, if issues of fact are presented about whether an agreement to arbitrate was made, to insist that they be tried by jury. Additionally, of course, there is the factor of the over-burdened calendars of the courts, which are hardly helped by having to impanel juries to determine arbitrability questions. The Committee has often been asked to recommend a statute that would dispense with trial by jury of such issues.

The problem is one of constitutionality. Some of the members of the Committee have serious reservations about whether a statute can dispense with a jury in trying such issues. They reason that if, absent any commitment to arbitrate, an ordinary action involving the dispute would be triable by jury (i.e. an action for money only), a genuine issue as to whether the dispute is to be taken away from the court also would require a jury trial. Under this reasoning an arbitrability issue would be just such an issue.

An opposing view is that if a party has affixed his signature to an agreement containing an arbitration clause, he has established a sufficient link with an obligation to arbitrate to permit trial of the issue by the court without a jury.

An amendment of the state constitution to dispense expressly with trial by jury in such instances would be the best method of resolving this problem. But the amendment process is a cumbersome one. The Committee takes the position that the matter should not be pressed to the constitutional-amendment point until the Court of Appeals has at least had a chance to address the issue whether, under present law, the arbitrability question is triable by jury. While a statute dispensing with trial by jury of the question is not indispensable to set up a court test, it would surely be helpful. Hence, the Committee recommends the adoption of CPLR 7503(d), dispensing with trial by jury of the threshold question of arbitrability and other issues of fact and permitting these question to be heard and resolved by the court.

Because of the Committee's reservations about constitutionality, a report addressed to the subject was undertaken by a Yale law student under the direction of Professor Geoffrey C. Hazard, Jr. The report, which appears at page 314 of the Judicial Conference's 1978 Annual Report, concludes that the Constitution does not bar the Legislature from requiring that trial of the arbitrability issue be by the court without a jury. The matter remains in doubt, despite the general rule of construction that favors the constitutionality of statutes, and its submission to the courts is deemed the most appropriate step.

If the courts determine that trial by jury is required, and set CPLR 7503(d) aside as unconstitutional, the Committee will have performed what it considers to be its duty to help set the stage for the test.

12. CPLR 7804(g)

The Committee recommends that CPLR 7804(g) be amended to make it clear that only those issues which could terminate the case upon their being resolved before the substantial evidence issue is reached shall be decided by Special Term before the case can be transferred, when not dismissed, to the Appellate division for consideration of the substantial evidence question.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to the hearing and determination of article 78 proceedings.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (g) of section seventy-eight hundred four of the civil practice law and rules is amended to read as follows:

(g) Hearing and determination; transfer to appellate division. Where [an] *the substantial evidence* issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall *first dispose of such other objections as could terminate the proceeding, including but not limited to lack of jurisdiction, statute of limitations and res judicata, without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceeding, the court shall* make an order directing that [the proceeding] *it* be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced [; the court may, however, itself pass on objections in point of law]. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

CPLR 7804(g), which requires that an Article 78 proceeding involving the substantial evidence review criterion be transferred by the Supreme Court, where the proceeding is begun, to the Appellate Division, provides also that the Supreme Court "may.... itself pass on objections in point of law" before making the transfer. Just what questions are to be passed upon under this ambiguous criterion has been a subject of disagreement.

One of the soundest constructions of the phrase is that the Supreme Court should pass only on those objections that have the potential for terminating the case without reaching the substantial evidence question, *i.e.*, objections that can dismiss the action and thus obviate a transfer. In 1979 the matter was discussed at the annual Crotonville Conference of Trial Judges and the judges agreed with the above construction.

Accordingly, the Committee recommends that Special Term pass only on those objections that can result in dismissal, *i.e.*, lack of jurisdiction, statute of limitations, and res judicata. If any such defense succeeds, the case would be dismissed and a transfer (and a reaching of the substantial evidence issue) would be unnecessary. If the defense fails, the case then can be transferred for determination of the substantial evidence issue by the Appellate Division, along with such other objections as did not have the potential for terminating the case, *e.g.*, questions of admissibility of evidence by the agency, the following of proper administrative procedure, and so forth.

An alternative that the Committee rejected was the repeal of CPLR 7804(g), so that the Supreme Court would determine the substantial evidence question and the Appellate Division would review the question, if at all, only as part of an ordinary appeal. Since the substantial evidence rule is an adjunct of the old writ of certiorari, which applied only when it was sought to review a determination following a full-fledged "quasi-judicial" hearing (what the State Administration Procedure denominates an "adjudicatory proceeding"), and since this phase of Article 78 carries forth that function, the procedure of leaving initial judicial review of the substantial evidence question to the Appellate Division should be retained. The premise underlying this procedure is that there has already been a plenary hearing before the agency, giving rise to a full record, and that a "substantial evidence" review of that record should go only to an appellate-level court. The Committee is of the view that the reason for "filtering" it through nisi prius, as CPLR 7804(g) does, is only to enable that court to determine other issues that may be raised and that can obviate disposition of the substantial evidence issue.

13. CPLR 8001(a)

The Committee recommends that CPLR 8001(a) be amended to raise the daily fee for the subpoenaed witness form $2.00 to $15.00, and the mileage fee payable to the witness from .08 to .23 cents, owing to inflation.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to fees of witnesses.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section eighty hundred one of the civil practice law and rules, is amended to read as follows:

(a) Persons subpoenaed. Any person [whom] *whose* attendance is compelled by a subpoena, whether or not actual testimony is taken, shall receive for each day's attendance [two] *fifteen* dollars for attendance fees and [eight] *twenty-three* cents as travel expenses for each mile to the place of attendance from the place where he was served, and return. There shall be no mileage fee for travel wholly within a city.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Comment

This measure would amend subdivision (a) of section 8001 of the CPLR to increase both the attendance fee and travel expenses for a person subpoenaed to testify in civil actions. The daily attendance fee would be increased from $2.00 to $15.00, and travel expenses for each mile from the place of service of the subpoena to the place of attendance and back, from 8 cents to 23 cents. Because section 610.50 of the CPL provides that "[a] witness subpoenaed by the people in a criminal action is entitled to the same fees and mileage as a witness in a civil action," this measure would provide similar increases in fees and expenses allowed prosecution witnesses in criminal cases.

As a result of inflation over the past 23 years, attendance fees and the reimbursement level for travel expenses for persons subpoenaed are in need of revision. These fees and the expense reimbursement level, which have not been revised since the original enactment of the CPLR in 1962, no longer reflect present economic reality. The proposed increase in fees will afford witnesses more reasonable compensation for time lost while testifying in court or at an examination before trial. The proposed increase in mileage will provide witnesses with the same reimbursement now afforded state employees who travel on official State business.

The increase being adopted here for the trial subpoena also will apply to the pretrial deposition subpoena. An additional $3 remains applicable to that subpoena under subdivision (b) of CPLR 8001.

A recommendation that small claims actions be exempted from the witness fee provisions is under study by the Advisory Committee and may be the subject of future proposals.

14. CPLR 8201-8204

The Committee recommends the amendment of the four sections governing court costs, to upgrade the amounts and to provide for uniform statewide application thereof in order to reduce the gap occasioned by inflation.

Recommendation

AN ACT

To Amend the civil practice law and rules, in relation to amount of costs in an action.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two hundred one of he civil practice law and rules, as separately amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8201. Amount of costs in an action. Costs awarded in an action shall be in the amount of:

1. [fifty] *two hundred* dollars [in the counties within the city of New York, and twenty-five dollars in all other counties,] for all proceedings before a note of issue is filed; plus

2. [one] *two* hundred dollars [in the counties within the city of New York, and fifty dollars in all other counties,] for all proceedings after a note of issue is filed and before trial; plus

3. [one] *three* hundred [fifty] dollars [in the counties within the city of New York, and seventy-five dollars in all other counties,] for each trial, inquest or assessment of damages.

§2. Section eighty-two hundred two of such law and rules, as separately amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8202. Amount of costs on motion. Costs awarded on a motion shall be in an amount fixed by the court, not exceeding [forty] *one hundred* dollars [in counties within the city of New York, and twenty dollars in all other counties].

§3. Subdivision (a) of section eighty-two hundred three of such law and rules, as separately amended by chapters three hundred ninety-one and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

(a) Unless the court awards a lesser amount, costs awarded on an appeal to the appellate division shall be in the amount of [: 1. twenty-five dollars for all proceedings before argument; plus 2. fifty dollars for argument] *two hundred fifty dollars.*

§4. Section eighty-two hundred four of such law and rules, as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8204. Amount of costs on appeal to court of appeals. Unless the court awards a lesser amount, costs awarded on an appeal to the court of appeals shall be in the amount of [: 1. fifty dollars for all proceedings before argument; plus 2. seventy-five dollars for argument] *five hundred dollars.*

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law; provided, however, that its provisions shall apply only to bills of costs entered on or after such date, regardless of when the claim accrued or the action was commenced.

Comment

This measure would amend section 8201, 8202, 8303 and 8204 of the CPLR to increase the amount of costs awardable in an action, on a motion, and on appeals to the Appellate Division and the Court of Appeals.

No change is proposed in the concept that costs provide only a partial reimbursement for the expenses incurred by a successful party; the amounts awardable, which have not been changed in many years, are adjusted principally to offset the effects of inflation over the last two decades.

The policy underlying an award of costs is that the prevailing party should have some compensation for the expenses incurred in successfully asserting his rights in court. Only certain categories of out-of- pocket expenses are recoverable as "disbursements" (CPLR 8301); an award of costs provides partial reimbursement for general expenses and inconvenience incurred by the successful party. The sums allowed as costs, as set out in Article 82 of the CPLR, are nominal. These are not intended to represent full recovery of attorney's fees (*Harlan* v. *Weiner*, 80 Misc. 2d 723, 725 (Civil Court of the City of New York, New York County, Dec. 18, 1974). New York courts have declined to allow the prevailing party in ordinary civil litigation to recover actual litigation expenses, even where the opposing party has asserted groundless claims or defenses (*Scully* v. *Genesee Milk Producer's Coop.*, 78 A.D. 2d 982 (Fourth Dept., 1980), "the theory being that costs awarded.... is all the indemnity that the law allows..." *New York Pattern Jury Instructions - Civil,* vol. 2, p. 810.

Since the amounts allowable as costs have not been changed for many years, the nominal sums originally set have become absurdly low as a result of inflation. In 1951, the Civil Practice Act adopted the present format of awarding $25 for proceedings before the filing of a note of issue, $50 for all proceedings after a note of issue is filed and before trial, and $75 for each trial, inquest or assessment of damages. These categories and dollar amounts were carried forward when the CPLR was enacted in 1962. In 1972, a distinction was drawn between actions in the counties within the City of New York and elsewhere in the state, and the amounts were doubled as to those counties within the City of New York. There have been no changes at all in the amounts applicable to actions outside the City of New York.

For motions, costs were fixed at $10 for many decades and then increased to $20 when the CPLR was enacted in 1962. In 1972, the maximum costs on motions in counties within the City of New York were increased to $40 while the maximum of $20 was preserved elsewhere.

The level of costs on appeals has remained the same for several decades.

With the rate of inflation experienced in the last fifteen years, the amounts now authorized as costs have lost what little significance they once had. This measure proposes modest across-the-board increases in these amounts so that victorious litigants may receive compensation for their expenses at a level closer to what originally was intended.

Under present law (CPLR 8201), costs in an action are made awardable in three stages and may vary, depending on whether the action is being litigated in New York City or elsewhere in the State. Thus, costs awardable for proceedings before the filing of a note of issue are now established at $50 in New York City and $25 elsewhere; for proceedings between the filing of the note of issue and trial, they are $100 and $50 respectively. This measure would, at each stage, eliminate the distinction drawn between New York City and elsewhere, and establish uniform costs awardable in an action as follows: for the pre-note of issue stage, which has become more important in recent years as a result of the certificate of readiness requirement, $200; for the note of issue to trial stage, $200; and for the trial itself, $300.

Costs on a motion (CPLR 8202) are fixed by the court, subject to a maximum of $40 in New York City and $20 elsewhere. Here again, this measure would eliminate the distinction drawn between New York City and elsewhere and establish $100 as the maximum costs awardable on a motion.

The maximum costs awardable on appeal to the Appellate Division (CPLR 8203 (a)) are awardable in two stages; $25 for all pre-argument proceedings and $50 for argument. Maximum costs on appeal to the Court of Appeals (CPLR 8204) are similarly so bifurcated: $50 for all pre-argument proceedings and $75 for argument. This measure would, in both cases, eliminate the two-stage award, and would establish $250 and $500 as the maximum costs awardable on appeal to the Appellate Division and to the Court of Appeals, respectively.

The labors that went into a formulation of the costs proposals were largely those of one of the Committee's own members, William D. Eggers of Rochester, and the Committee wishes to acknowledge those efforts with thanks.

Part IV - Recommendation for Amendment of General Obligations Law §15-108 (Release or covenant not to sue)

The Committee recommends that General Obligations Law §15-108 be amended to provide that subdivisions (b) and (c) thereof are applicable to claims for indemnification as well as claims for contribution.

Recommendation

AN ACT

To Amend the general obligations law, in relation to release or covenant not to sue.

Section 1. Section 15-108 of the general obligations law is amended to read as follows:

§15-108. Release or covenant not to sue. (a) Effect of release of or covenant not to sue tortfeasors. When a release or a covenant not to sue or not to enforce a judgment is given to one of two or more persons liable or claimed to be liable in tort for the same injury, or for the same wrongful death, it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms expressly so provide, but it reduces the claim of the releasor against the other tortfeasors to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it or in the amount of the released tortfeasor's equitable share of the damages under article fourteen of the civil practice law and rules, whichever is the greatest.

(b) Release of tortfeasor. A release given in good faith by the injured person to one tortfeasor as provided in subdivision (a) relieves him from liability to any other person for contribution as provided in article fourteen of the civil practice law and rules *or for indemnification.*

(c) Waiver of contribution. A tortfeasor who has obtained has own release from liability shall not be entitled to contribution *or indemnification* from any other person.

Comment

This proposed amendment of subdivisions (b) and (c) of General Obligations Law §15-108 adds the term "indemnification" to clarify that the benefits conferred by the statute apply whether the interests of the tortfeasors inter se qualify as "contribution" or "indemnification". The amendment is designed to overrule *Riviello v. Waldron,* 47 N.Y. 2d 297, 418 N.Y.S. 2d 300 (1979), which, by construing the statute to exclude tortfeasors who have a claim for "indemnification," has greatly impeded settlements in cases involving multiple tortfeasors. It has been widely reported, and the Committee's own experience corroborates, that since a tortfeasor is not sure—because of *Rivello*—of buying "peace" when there is any significant possibility that he will be found to bear an "indemnification" rather than "contribution" relationship to one of the nonsettling tortfeasors, he will not settle. If the remaining tortfeasor's claims involve "indemnification," *Riviello* removes §15-108's insulation and with it the tortfeasor's incentive to settle: the settlor is subject to impleador and further payments on the very claim he thought he was settling. This problem has been reported often. See. e.g. Lead Note in New York State Law Digest No. 293, treating the case of *Mead* v. *Bloom*, 62 N.Y. 2d 788, 477 N.Y.S. 2d 326 (1984); Green, Samuel L. (Associate Justice, App. Div. 4th Dept.), *General Obligations Law Section 15-108: An Unsettling Law*, Buffalo Law Journal, vol. 55-21, March 14, 1983, New York State Bar Journal, vol. 55, no. 6, p. 28, October, 1983.

Moreover, at present the issue of whether the nonsettling tortfeasor's claims involve "indemnification" or "contribution" has necessitated additional time-consuming litigation.

There may be further steps that should be taken to enhance the potential for settlements under §15-108, such as restoring the right of a settling tortfeasor to pursue nonsettling ones for contribution (which the settlor cannot do at present). However, the Committee believes that additional changes must be the subject of further study. In the interim, the Committee believes that the present step—a simple and direct one—will go far to encourage settlements immediately by assuring every settling tortfeasor, whatever the character of his liability, that he is relieved forever of further liability on the claim he settled, in that:

(1) he cannot be sued by the injured person with whom he has settled, which was always so under §15-108, and

(2) he cannot, when the injured person brings or continues suit against a non-settling tortfeasor, be impleaded by that tortfeasor, which at present is so under the *Riviello* construction only when the relationship involves unambiguous "contribution".

The statute (*see* Siegel, New York Practice, §176) properly will adjust the recovery that the plaintiff may be awarded in any suit against the nonsettling tortfeasor whether the relationship between that tortfeasor and the settling one rests on indemnification or contribution. Experience has shown that, at least with respect to §15-108 of the General Obligations Law, "contribution" and "indemnification" should be treated as variations on the same theme: contribution being, in essence, only partial indemnification and indemnification being, in essence, total contribution. The present proposal recognizes this relationship and would do much to alleviate the problems generated by the *Riviello* decision.

Part V - Pending and Future Matters

The Committee is in the process of completing several pending projects, as well as initiating several studies affecting civil practice with a view toward recommending legislation. In connection therewith, the work of the subcommittees appointed by the Chairperson continues, with the following results:

1. The Subcommittee on Matrimonial Procedures has proposed recommendations on expediting matrimonial and other proceedings involving the status of children, on the Uniform Rules for the New York Trial Courts as they relate to matrimonial proceedings, and on the applicability of the Committee's Disclosure Bill to matrimonial proceedings, as reflected in part II of this Report.

2. The Subcommittee on the Constitutionality of Enforcement Provisions, with possible legislation in mind, continues to monitor the operation and effect of Chapter 882 of the Laws of 1982, which, in the wake of *Deary* v. *Guardian Loan Co., Inc.* 534 F. Supp. 1178 (S.D.N.Y.), amended CPLR 5222, 5232 and 5234 to provide for prior notice of restraining notices and executions or garnishments.

3. The Subcommittee on Statutes of Limitation has proposed a bill which would incorporate a more equitable provision governing the running of time for commencement of actions based on latent injuries caused by contract or exposure to toxic substances or hazardous wastes. The details are discussed in Part III of this Report.

4. The Subcommittee on Contribu[illegible]nd Apportionment of Damages has participated in the preparation of a bill, included in Part IV of this Report, which would amend General Obligations Law §15-108 to make that provision applicable to claims for indemnification, at present excluded under *Riveillo* v. *Waldron*, 47 N.Y. 2d 297 (1979), in order to facilitate settlements. Further, the Committee will continue to consider the possibility of additional amendments to increase incentives for settlement and will consult with the Law Revision Commission, which also is studying this matter.

5. The Subcommittee on Service of Process intends to report during the coming year on several aspects of service of process, including (1) review of service of process provisions in the Federal Rules, including the establishment of service of process by mail as the ordinary means of service, (2) legislation fixing reasonable fees for process servers, (3) proposals for improving service of process in landlord and tenant proceedings; and (4) legislation to ameliorate the harsh effects of *Feinstein* v. *Bergner*, 48 N.Y. 2d 234 (1979) and *Ericson* v. *Macy*, 236 N.Y. 412 (1923), where plaintiffs' actions were dismissed on the merits because of technical defects in the method of service of process.

6. The Subcommittee on Courts of Limited Jurisdiction, after considering a suggestion by the Honorable Charles H. Cohen, New York City Civil Court member of the Judicial Conference, has proposed that the appropriate costs provisions of the uniform court acts, excluding the Uniform Justice Court Act, be amended to provide, similarly as in Supreme Court, for costs to be awarded based on the stage of the proceeding rather than the amount recovered, and that, within that framework, the maximum amount of costs awardable be raised to half the amount now allowable in Supreme Court. The Committee now

is drafting implementing legislation that will recommend for submission to the Legislature as soon as feasible.

In addition, the Subcommittee has continued its statewide canvass of small claims courts outside of New York City in order to determine local needs, sometimes at variance with those prevailing in New York City, preparatory to proposing recommendations for the statewide resolution of problems encountered in the small claims courts.

7. The Subcommittee on Time Periods in Motion Practice has reported its recommendations for easing the obstacles to timely service that are encountered when service is by mail. These recommendations, which include expansion of time limits and a new method of measuring those limits, will be considered as a subject for possible future legislation in light of experience under Chapter 177 of the Laws of 1984, which extended the time limits set forth in the notice and demand option of CPLR 2214(b) (Time for service of notice and affidavits on motion).

Additional matters of importance under consideration by the Committee include the following:

1. The Committee is studying proposals to amend CPLR 321(c) (death, removal or disability of an attorney) or, alternatively, other provisions of CPLR, such as Article 2 (limitations of time), to provide relief to a prospective plaintiff who is deprived of the services of an attorney through the attorney's death, disability, suspension or disbarment shortly before the expiration of the period of limitations, especially where a short period of limitations is involved.

2. The Committee is considering the possible need for legislation respecting the interplay of provisions of the CPLR and the Freedom of Information Law in light of *Farbman* v. *New York City Health and Hospitals Corp.*, 62 N.Y. 2d 75 (1984).

3. The Committee will continue to accept and review the suggestions and proposals that have been submitted to it from members of bench and bar and from the various court clerks' offices around the State in response to its proposed amendments of the official forms.

4. The Committee continues to explore the possibility of an effective proposal for avoiding forum abuse in actions which appropriately would belong under small claims jurisdiction, but are in fact commenced in the Supreme Court in plaintiff's county, although the claim arose and the defendant resides in a different county.

The Committee continues to solicit the comments and suggestions of bench, bar, academic community and public, and invites the sending of all observations, suggestions and inquiries to:

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1985 Report

of the

Advisory Committee on Criminal Law And Procedure

to the

Chief Administrator of the Courts

of the

State of New York

February, 1985

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I. Introduction

This is the Fourteenth Annual Report of the Advisory Committee on Criminal Law and Procedure. We recommend endorsement of seventeen measures to amend the Criminal Procedure Law, one to amend the Penal Law and two to amend the Vehicle and Traffic Law. Three of these measures are being submitted for the first time, while the balance have been submitted previously, although three have been modified.

The new measures include proposals: providing for the amendment of an indictment, where a retrial is ordered, to charge lessor included offenses of counts that have been disposed of under such circumstances as to preclude defendant's retrial thereon; correcting a technical error in section 190.90(4) of the Criminal Procedure Law; and providing that a fine for violating the mandatory seat belt law provisions relating to the restraint of children under the age of 4 may be waived only where the violator submits proof of purchase of a child restraint system after the date of the violation.

Part II of this Report summarizes each of the measures previously submitted and explains its purpose. Part III summarizes each of the measures being submitted for the first time, and the measures submitted previously but modified upon submission this year. In both parts II and III, individual summaries are followed by drafts of appropriate legislation.

II. Previously Endorsed Measures.

A. Establishment of a Procedure to Obtain Warrant of Arrest.

It is recommended that section 1.20 and article 120 of the Criminal Procedure Law be amended to establish a procedure for obtaining a warrant of arrest prior to the formal commencement of a criminal action.

The United States Supreme Court has held that an arrest warrant must be obtained before police may enter a suspect's home to make a "routine" felony arrest, absent exigent circumstances. *Payton* v. *New York*, 445 U.S. 573 (1980). Under existing New York law, an arrest warrant may not be issued until after an accusatory instrument commencing a criminal action is filed. CPL §120.10. This limitation causes difficulty when authority to arrest is needed and a court is unavailable for the filing of the accusatory instrument, or practical problems delay the preparation of the instrument itself. There are also circumstances under which probable cause to arrest an individual exists but further investigation is warranted before the prosecution can determine whether to commence a criminal action. Therefore, it is necessary to develop a mechanism whereby law enforcement officers possessing the statutory requirements to arrest without a warrant in a public place may obtain judicial authorization to arrest a person in his home before formal criminal proceedings are begun.

Our proposal would establish that mechanism by amending the existing arrest warrant provisions to permit an *ex parte* application to be made to the court for a warrant when a person may be arrested for a crime pursuant to section 140.10 of the Criminal Procedure Law and all other statutory requirements are met. The application provisions are patterned after those governing search warrants (*see* CPL §690.35), and the procedure to be followed after arrest remains as stated in section 140.20 with the additional requirement of a return of the warrant and a report to the court indicating the time and place of the arrest and subsequent steps taken.

The new procedure established by this measure will safeguard the rights of individual's suspected of criminal activity while permitting law enforcement officers to complete their investigations before commencing formal proceedings. It must be noted, however, that this measure may also have an impact upon the scope of other investigatory procedures that may be conducted before an action is commenced. *See People* v. *Samuels*, 49 N.Y.2d 218 (1980).

AN ACT

To Amend the criminal procedure law, in relation to warrant of arrest.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions twenty-eight and twenty-nine of section 1.20 of the criminal procedure law are amended to read as follows:

28. ["Warrant] *(a) "Warrant of arrest" means a process of a criminal court, more fully defined in subdivisions three and four of section 120.10, directing a police officer to arrest a person.*

(b) "Local criminal court warrant of arrest" means a [process] *warrant of arrest* of a local criminal court [, more fully defined in section 120.10,] directing a police officer, *pursuant to article 120,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

[29.] *(c)* "Superior court warrant of arrest" means a [process] *warrant of arrest* of a superior court directing a police officer, *pursuant to subdivision three of section 210.10,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

§2. Sections 120.10, 120.20, 120.30 and 120.40 of such law, section 120.10 as amended by chapter eight hundred forty-three of the laws of nineteen hundred eighty, section 120.40 as amended by chapter sixty-one of the laws of nineteen hundred seventy-three, are amended to read as follows:

§120.10. Warrant of arrest; definition, function, form and content. 1. A *warrant of arrest is a process of a criminal court directing a police officer to arrest a person.*

2. A local criminal court warrant of arrest is a [process] *warrant of arrest* issued by a local criminal court directing a police officer or a peace officer appointed by the state university to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a *local criminal court* warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

[2.] *3.* A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense [charged in the underlying accusatory instrument] *for which the person is to be arrested,* and (d) the name of the [defendant] *person* to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers or peace officers appointed by the state university to whom the warrant is addressed, and (f) a direction that such officer arrest [the defendant] *such person,* and *(g) where the warrant of arrest issued upon an accusatory instrument, a direction to* bring him before the issuing court.

[3.]*4.* A warrant of arrest may be addressed to *any police officer,* a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers, as well as to peace officers appointed by the state university. Multiple copies of such a warrant may be issued.

§120.20. Warrant of arrest; when issuable. 1. When a criminal action has been commenced in a local criminal court by the filing therewith of an accusatory instrument, other than a simplified [traffic] information, against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto, such court may, if such accusatory instrument is sufficient on its face, issue a *local criminal court* warrant *of arrest* for such defendant's arrest.

2. (a) Where a person may be arrested for a crime pursuant to section 140.10, a police officer or a district attorney may apply to a criminal court for a warrant of arrest. Upon such application, if the criminal court is satisfied that an arrest of such person is authorized by section 140.10, the court may issue the warrant.

(b) An ex parte application for such warrant must be submitted to a judge of a criminal court and it must be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, to the issuing judge and recorded verbatim. The application must contain:

(i) The name of the court, the name and title of the applicant, and the date of the application;

(ii) A statement that an arrest of a named person (or, if such be unknown, any name or description by which such person can be identified with reasonable certainty) for a specified crime is authorized by section 140.10;

(iii) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief. The applicant may also submit depositions of other persons containing allegations of fact, based upon personal knowledge or upon information and belief, supporting or tending to support those contained in the application. Allegations based upon information and belief shall include the source of such information and the grounds of such belief; and

(iv) A request that the court issue the warrant.

[2.] *3.* Even though such accusatory instrument *or application, as the case may be,* is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.

[3.] *4.* Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a *local criminal court* warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a *local criminal court* warrant of arrest.

§120.30 Warrant of arrest; by what courts issuable and in what courts returnable. 1.A *warrant of arrest may be issued by a criminal court with geographical jurisdiction of a crime specified in the application submitted to it pursuant to subdivision two of section 120.20.*

2. A local criminal court warrant of arrest may be issued only by the local criminal court with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only.

[2.] *3.* The particular local criminal court or courts with which any particular local criminal court accusatory instrument may be filed for the purpose of obtaining a *local criminal court* warrant of arrest are determined, generally, by the provisions of section 100.55. If, however, a particular accusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

§120.40 Warrant of arrest; attaching accusatory instrument to warrant of town court or village court. A town court or a village court which issues a *local criminal court* warrant of arrest may attach thereto a duplicate copy of the underlying accusatory instrument. If one or more duplicate copies of the warrant are issued, such court may attach as many copies of such accusatory instrument to copies of such warrant as it chooses. In any case where, pursuant to subdivision five of section 120.90, a defendant arrested upon such a warrant of arrest is brought before a local criminal court other than the town court or village court in which the warrant is returnable, a copy of the accusatory instrument constitutes a valid basis for arraignment as provided in subdivision one of section 170.15.

§3. Section 120.50 of such law is REPEALED.

§4. Section 120.90 of such law is amended by adding a new subdivision eight, to read as follows:

8. Notwithstanding the foregoing provisions of this section, the procedure following an arrest upon a warrant of arrest issued pursuant to subdivision two of section 120.20 shall be as provided in section 140.20. Further, within a reasonable time after the arrest of a person pursuant to such warrant, a police officer shall return the warrant to the issuing court and file with it a report of the time and place of the arrest and a report as to which of the procedures of section 140.20 were followed. The failure to file such report shall not be grounds for invalidating the arrest or the evidence derived from the arrest.

§5. This act shall take effect immediately.

NOTE: CPL 120.50 is repealed by this act since its provisions are included within subdivision three of CPL 120.10.

B. Immunity of Grand Jury Witnesses.

It is recommended that section 190.40 of the Criminal Procedure Law be amended to clarify existing law by providing that a witness before the grand jury does not receive immunity by reason of giving identification evidence of a nontestimonial character, which the witness would have no constitutional privilege to withhold.

Section 190.40 now confers immunity upon any witness who has been compelled to "give evidence" before the grand jury. This standard of "giving evidence" is however, overboard and could be construed to authorize immunity for a person appearing before the grand jury even if the evidence he or she gives is nontestimonial and not of a type that the witness is otherwise privileged to withhold. If a witness has no privilege with respect to this evidence, he or she has given up nothing by furnishing it to the grand jury and should not receive immunity as a result.

These considerations apply primarily to the giving of nontestimonial identification evidence, such as standing in a lineup, or furnishing a blood, voice, handwriting or fingerprint sample. A witness has no constitutional privilege to refuse to give this evidence, *Schmerber* v. *California*, 384 U.S. 757(1966), and, therefore, should not receive immunity by reason of providing it.

Paragraph (c) of subdivision two of section 190.40, as added by the Legislature in 1975, recognizes the principle as it applies to corporate books and records, which a witness similarly would not be privileged to withhold. Our proposal would delete paragraph (c) and replace it with a general provision which limits the grant of immunity to evidence which is protected from disclosure by the privilege against self-incrimination.

AN ACT

To Amend the criminal procedure law, in relation to the immunity received by grand jury witnesses to make clear that no immunity results from the giving of

nontestimonial identification evidence which the witness would have no constitutional privilege to withhold.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.40 of the criminal procedure law, paragraph (c) of subdivision two thereof as added by chapter four hundred fifty-four of the laws of nineteen hundred seventy-five, is amended to read as follows:

§190.40 Grand jury; witnesses, compulsion of evidence and immunity. 1. Every witness in a grand jury proceeding must give any evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him.

2. [A witness who gives evidence in a grand jury proceeding] *In a grand jury proceeding, a witness who is required to give evidence under subdivision one which he would otherwise be entitled to withhold by virtue of the privilege against self-incrimination,* receives immunity unless:

(a) He has effectively waived such immunity pursuant to section 190.45; or

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.

[(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.]

§2. This act shall take effect immediately.

C. Conduct of *Voir Dire*.

It is recommended that section 170.15 of the Criminal Procedure Law be amended to transfer responsibility for conducting the *voir dire* of prospective jurors in a criminal case from the parties to the court.

Under the proposal, the court would conduct a general examination of prospective jurors regarding their qualifications to serve. The parties would be permitted to submit written questions to the court in advance of the *voir dire;* and to submit oral or written questions during the actual questioning. The court may add these questions to its own inquiry, or it may permit counsel to ask them of the prospective jurors directly.

This procedure would result in the elimination of a significant amount of delay caused by unnecessarily prolonged *voir dire* now conducted by counsel for the parties. It combines attributes of the existing system in New York and the federal selection system, in which *voir dire* is generally conducted by the court without the participation of the lawyers. *See* Fed. Rules Cr. Proc. rule 24(a). Our proposal would eliminate delay while preserving the rights of the parties to an impartial jury.

AN ACT

To Amend the criminal procedure law, in relation to examination of prospective jurors.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions one and two of section 270.15 of the criminal procedure law, subdivision one as amended by chapter three hundred one of the laws of nineteen hundred eighty-one and subdivision two as amended by chapter three hundred two of the laws of nineteen hundred eighty-one, are amended to read as follows:

1. If no challenge to the panel is made as prescribed by section 270.10, or if such challenge is made and disallowed, the court must direct that the names of not less than twelve members of the panel be drawn and called as prescribed by the judiciary law. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The court must [permit both parties, commencing with the people, to] examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors.

In conducting this examination, the court must ask the prospective jurors any questions submitted to the court in writing by either party prior to trial, or the court may permit counsel to ask such questions. The court must also ask any additional questions submitted by either party, orally or in writing, during the course of the examination, or the court may permit counsel to ask such questions. The scope of the examination is within the discretion of the court, and the court may disallow [statements or] questions [by] *of* either party that are irrelevant to the examination or repetitious.

2. Upon the completion of such examination [by both parties], each *party*, commencing with the people, may challenge a prospective juror for cause, as pre-

sribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. If either party so requests, challenges for cause must be made and determined, and preemptory challenges must be made, within the courtroom but outside of the hearing of the prospective jurors in such manner as not to disclose which party made the challenge. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.

§2. This act shall take effect immediately.

D. Reduction of Peremptory Challenges.

It is recommended that section 270.25 of the Criminal Procedure Law be amended to reduce the allotted number of peremptory challenges from twenty to fifteen if the highest crime charged is a Class A felony, four fifteen to twelve if the highest crime changed is a Class B or C felony, and from ten to eight in all other cases.

After conducting an intensive study of the method of jury selection in New York, the Subcommittee on the Jury System of the Advisory Committee on Court Administration, chaired by the Hon. Caroline K. Simon, recommended the reduction of the number of peremptory challenges to the levels proposed herein as a means of improving the efficiency of our jury selection system. Subcommittee on the Jury System, *Interim Report*, 1976/77. The Subcommittee based its recommendation on the following specific findings:

1. There is s direct correlation between the number of peremptory challenges permitted and the excessively large size of panels sent to *voir dire*.

2. Peremptory challenges extend the time necessary to conduct *voir dire*, which has the effect of delaying trials and congesting court calendars.

3. The use of the challenge provokes hostility and resentment on the part of jurors who are peremptorily excused.

4. The availability of a large number of peremptory challenges in criminal cases can result in systematic exclusion of particular groups from jury service in a given trial.

5. It is questionable whether the peremptory challenge accomplishes the purpose for which it was devised—producing an impartial jury: indeed, it may convincingly be argued that it is used by attorneys to pick a biased jury rather than an unbiased one.

The Subcommittee also noted that New York now allows more challenges in felony cases than most other states.

This Committee agrees with these findings and recommends this proposal as an effective method of reducing a significant amount of delay in the conduct of criminal jury trials, without diminishing the fairness of the trial.

Our proposal would permit the court, for good cause shown, to increase the number of allotted peremptory challenges to the level allowed under existing law. We feel this authority is necessary to preserve the rights of the parties in exceptional cases.

AN ACT

To Amend the criminal procedure law, in relation to the number of peremptory challenges.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 270.25 of the criminal procedure law is amended to read as follows:

2. Each party must be allowed the following number of peremptory challenges.

(a) [Twenty] *Fifteen* for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of twenty.*

(b) [Fifteen] *Twelve* for the regular jurors if the highest crime charged is a class B or class C felony, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of fifteen.*

(c) [Ten] *Eight* for the regular jurors in all other cases, and two for each alternate juror to be selected, *except for good cause shown the court may allow on additional number of peremptory challenges to regular jurors up to but not exceeding to total of ten.*

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

E. Justice Who May Grant Leave to Appeal.

It is recommended that section 460.20 of the Criminal Procedure Law be amended to provide that permission to appeal to the Court of Appeals from an order of an appellate division may not be sought from a justice who did not participate in the determination.

Section 460.20 now allows permission to be granted by any "justice of the appellate division of the department which entered the order sought to be appealed." Although this appears to encourage "judge-shopping," in practice, permission to appeal usually is sought only from an appellate justice who dissented in the case. Nevertheless, where the application is made to one who did not hear the arguments or participate in the decision, the unmistakable inference is that he or she has been selected because the appellant perceives a predisposition to the appellant or to a particular side, defense or prosecution. Although this perception may be incorrect, the choice of a nonparticipating justice gives the appearance of impropriety and should not be permitted.

This proposal was cited with approval by the Court of Appeals in its unanimous decision in *People* v. *Dorta,* 46 NY 2d 818 (1978). That case was before the Court of Appeals by permission of a justice of the appellate division who did not participate in the determination sought to be appealed. The Court of Appeals commented:

> ...While such procedure is presently authorized (Cpl 460.20 subd. [2], par. [a]), we believe the better practice to be that which was recently advocated by the Advisory Committee on Criminal Law and Procedure—to wit, that an appellant be prohibited from seeking leave to appeal to the Court of Appeals from a Justice of the Appellate Division who did not participate in the determination of the case. 46 NY 2d at 821.

AN ACT

To Amend the criminal procedure law, in relation to certificates granting leave to appeal to the court of appeals.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision two of section 460.20 of the criminal procedure law is amended to read as follows:

(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals or (ii) a justice of the appellate division [of the department which entered the order sought to be appealed] *who participated in the determination of the order sought to be appealed.*

§2. This act shall take effect immediately, and shall apply to all cases in which the order of the appellate division sought to be appealed was entered on or after such effective date.

F. Use of Conditional Examinations and Prior Testimony.

Five years ago, we recommended an amendment to article 660 of the Criminal Procedure Law to authorize the videotaping of conditional examinations, to expand authorization for use of these examinations and to expand the use of prior testimony in general. Although authorization for videotaping was adopted in the 1979-80 session of the Legislature, the remainder of the Committee's proposal was not passed. It is now recommended that section 660.20 be amended to allow conditional examinations of witnesses where there is a showing of an attempt to induce the witness to be absent or otherwise unavailable to testify, and to permit the use of prior testimony given at any pretrial hearing when all statutory conditions are met.

The expansion of the use of conditional examinations to situations where there is an attempt to induce the witness to be absent is a reasonable response to those rare situations in which this authority is necessary. This is especially true now that the examination may be videotaped, thereby enabling the trier of fact to obtain a complete view of the witness as well as a transcript of the testimony.

Authority to use transcripts of prior testimony given at pre-trial hearings is likewise reasonable and desirable, since the statute already permits the use of previous testimony given at preliminary hearings upon felony complaints. Other previous testimony is no less reliable and, therefore, also should be admissible when all other statutory requirements are met. The United States Supreme Court has determined that the use of the previous testimony of an unavailable witness does not violate the confrontation clause of the United States

Constitution when adequate safeguards similar to those applicable in New York exist to ensure the reliability of the testimony. *Ohio* v. *Roberts*, 100 S. Ct. 2531 (1980).

AN ACT

To Amend the criminal procedure law, in relation to conditional examination of witness.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 660.20 of the criminal procedure law is amended to read as follows:

§660.20 Examination of witnesses conditionally; grounds for order. An order directing examination of a witness conditionally must be based upon the [ground] *grounds* that there is reasonable cause to believe that such witness[: 1. Possesses] *possesses* information material to the criminal action or proceeding in issue[;] and *that:*

[2. Will] *1. The witness will* not be amendable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is [:

(a) About] *about* to leave the state and not return for a substantial period of time[;] or *he is*

[(b) Physically] *physically* ill or incapacitated*; or*

2. there has been an attempt to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

§2. Subdivision one of section 670.10 of such law, as amended by chapter two hundred ninety-one of the laws of nineteen hundred eighty, is amended to read as follows:

1. Under circumstances prescribed in this article, testimony given by a witness at (a) a *hearing or* trial of an accusatory instrument, or (b) [a hearing upon a felony complaint conducted pursuant to section 180.60, or (c)] an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. Upon being received into evidence, such testimony may be read and any videotape or photographic recording thereof played. Where any recording is received into evidence, the stenographic transcript of that examination shall also be received.

§3. This act shall take effect immediately.

G. Affirmative Defense of Temporary Possession of a Weapon.

It is recommended that the Penal Law be amended by adding thereto a new section 265.06 to establish the affirmative defense of temporary possession of a weapon.

Under present New York law, there are a variety of defensive assertions that may be made at a trial for criminal possession of a weapon. In particular, they include failure of the prosecution to prove the required culpable mental state the statutory exemption provided by section 265.20 of the Penal Law. They also include a caselaw-established "defense" of temporary possession of a weapon. This defense has been termed "innocent possession" (*People* v. *Williams*, 50 N.Y. 2d 1043) "temporary and incidental possession" (*People* v. *Quintana*, 260 AD 12) and "temporary lawful possession" (*People* v. *Davis*, 61 Ad 2d 760).

This caselaw "defense" is overly broad and ill-defined, as a result of which there have been a number of unfounded assertions of it. *See, e.g., People* v. *Williams.* Moreover, the cases are silent as to whether the "defense" is to be disproved by the People beyond a reasonable doubt. *But see People* v. *Williams*, 50 NY 2d at 1046 (Fuchsberg, J., dissenting). Under these circumstances, trial courts are without guidance in properly charging juries.

We recommend creation of the affirmative defense of temporary possession of a weapon so as to narrow the ambit of defensive assertions that can be successfully advanced at trial. By placing a burden of proof upon the defendant to establish temporary possession by a preponderance of the evidence. (Penal Law §25.00(2)), the number of unfounded defensive assertions should thereby be reduced. Under our proposal, defendant must show: (1) that he or she found the weapon or confiscated it from someone possessing it illegally or from someone whom defendant reasonably believed had used or might use it illegally, (2) that defendant intended to turn the weapon over to the authorities, or to render it permanently inoperable or inaccessible to anyone and was pursuing that intent "with immediacy and through a reasonable course of conduct," and (3) that defendant did not use the weapon illegally.

This measure does not violate due process (see *Commonwealth* v. *Abken,* 391 A2d 672 [Pa, Super. Ct.], *aff'd sub nom. Abken* v. *Pennsylvania,* 440 U.S. 952), and properly makes temporary possession of a weapon an affirmative defense. Like other affirmative defenses under the Penal Law, it represents a means of vindication that is collateral to and distinct from the prosecution's case. Also, like other affirmative defenses, it is generally based upon information likely to be known by defendant alone.

AN ACT

To Amend the penal law, in relation to an affirmative defense of temporary possession of a weapon.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is amended by adding a new section 265.06, to read as follows:

§265.06. Criminal possession of a weapon; affirmative defense. In any prosecution for criminal possession of a weapon, it is an affirmative defense that:

(1) the defendant found the weapon or confiscated it from a person who possessed it illegally or confiscated it from a person who the defendant reasonable believed had used or might use it in an illegal manner; and

(2) the defendant intended to turn the weapon over to a peace officer or police officer, or to render it permanently inoperable or inaccessible to anyone, and was pursuing such an intent with immediacy and through a reasonable course of conduct; and

(3) the defendant did not use the weapon in an illegal manner.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become law.

H. Appeals to the Court of Appeals.

It is recommended that subdivision two of section 450.90 of the Criminal Procedure Law be amended to permit the Court of Appeals to review an unpreserved question of law decided by an appellate division as a matter of discretion in the interest of justice.

An intermediate appellate court may reverse a conviction on the basis of an unpreserved error of law occurring at trial. Because the error is unpreserved, however, reversal cannot be on the law alone [*see, People* v. *Johnson,* 47 NY 2d 124, 126 (1979), but upon an exercise of the court's authority to reverse as a matter of discretion in the interest of justice. CPL §§470.15(3) (c), 470.15(6) (a). The intermediate appellate court's order not being on the law alone, despite any recital to the contrary, no review of that court's action is authorized in the Court of Appeals. *People* v. *Cona,* 49 NY 2d 26, 34 (1979); *People* v. *Johnson, supra;* CPL §450.90(2).

By permitting the Court of Appeals to review an unpreserved question of law, upon which an appellate division has predicated reversal of a criminal conviction, this proposal would perform a salutary function. The present statutory formulation precludes such high court review simply because of the defendant's failure to register appropriate objection or protest at trial. CPL§470.05(2). Thus, the People, who had no reason or occasion to raise that objection or protest, are unfairly restrained from seeking further review of a pure question of law that the appellate division has reached only via exercise of its interest of justice jurisdiction.

Besides insuring that no party may derive a benefit from lack of diligence or inattention at trial, this proposal would cure a serious jurisdictional defect in the Court of Appeals' criminal jurisdiction. At the same time, it would not result in any significant increase in the Court's caseload, nor would it encroach on the appellate division's longstanding authority to review criminal cases in the interests of justice. It would merely insure that cases raising questions of law worthy enough to merit exercise of the latter's discretionary powers of review will thereafter be subject to review by our State's highest court.

AN ACT

To Amend the criminal procedure law, in relation to appeals to the court of appeals.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 450.90 of the criminal procedure law, paragraph (a) of which as amended by chapter six hundred fifty-one of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. An appeal to the court of appeals from an order of an intermediate appellate court reversing or modifying a judgment, sentence or order of a criminal court may be taken only if:

(a) The court of appeals determines that the intermediate appellate court's determination of reversal or modification was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal or modification; or

(b) The appeal is based upon a contention that corrective action, as that term is defined in section 470.10, taken or directed by the intermediate appellate court was illegal*; or*

(c) The court of appeals determines that the intermediate appellate court's determination of reversal or modification, irrespective of the form of its order, was made as a matter of discretion in the interests of justice based solely upon the intermediate appellate court's review of a question which would otherwise constitute a question of law, but for the lack of protest or preservation pursuant to section 470.05. In such instance, the court of appeals may review the unpreserved or unprotested question of law pursuant to subdivision two of section 470.35 and direct such corrective action as may be appropriate pursuant to section 470.40.

§2. This act shall take effect immediately.

I. Discovery of Nontestimonial Evidence.

It is recommended that section 240.40 of the Criminal Procedure Law be amended to permit a court to require defendant in a case when a felony or misdemeanor complaint is pending to provide nontestimonial evidence.

During its 1979 Session, the Legislature enacted a new article 240 of the Criminal Procedure Law, providing for expanded criminal discovery procedures. Section 240.40 authorizes a court in which an indictment, superior court information, prosecutor's information or information is pending to order a defendant to provide nontestimonial evidence. This proposal would expand this authority to permit an order to issue when a felony or misdemeanor complaint is pending. Since these accusatory instruments must also contain factual allegations establishing probable cause to support the charges, it is unnecessary to exclude them from the list of instruments that provide the basis for the court's order. *See* CPL §100.15.

AN ACT

To Amend the criminal procedure law, in relation to the discovery of nontestimonial evidence.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 240.40 of the criminal procedure law, the opening paragraph of which as amended by chapter three hundred seventeen of the laws of which as amended by chapter three hundred seventeen of the laws of nineteen hundred eighty-three and the closing paragraph of which as amended by chapter four hundred eighty-one of the laws of nineteen hundred eighty-three, such subdivision as added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitations, *(a)* the court in which an indictment, superior court information, prosecutor's information or information is pending[; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified[;], and (b) *the court in which an indictment, superior court information, prosecutor's information, information, felony complaint or misdemeanor complaint is pending* may order the defendant to provide nontestimonial evidence*; provided however, where a felony complaint is pending in a local criminal court, the superior court which would have trial jurisdiction of the offense or offenses charged were an indictment therefor to result may also order the defendant to provide nontestimonial evidence.* Such order may, among other things, require the defendant to:

(i) Appear in a line-up;

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to a reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States. This section shall not be construed to limit of otherwise affect the administration of a chemical test where otherwise authorized pursuant to section one thousand one hundred ninety-four-a of the vehicle and traffic law.

§2. This act shall take effect thirty days after it shall have become law; provided, however, the provisions of the criminal procedure law as amended herein, shall be applied only to criminal actions commenced on or after such date.

J. Waiver of Appeal After Denial of Motion to Suppress Evidence.

It is recommended that sections 220.50 and 710.70 of the Criminal Procedure Law be amended to provide that a defendant who negotiates a plea following a denial of a motion to suppress evidence waives the right to appeal from such denial unless defendant and the prosecutor stipulate otherwise at the time the plea is taken.

Section 710.70(2) of the Criminal Procedure Law now provides that "an order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty."This provision enables a defendant, after a motion to suppress is denied, to plead guilty to the charges and save the time and expense of a trial when his or her main defense was based upon the suppression of evidence. Thus, defendant is not required to go through an entire trial simply to preserve a suppression issue for appeal.

There are, however, many cases in which, as part of a negotiated plea, the defendant pleads guilty to a lesser charge or pleads guilty to a charge in one indictment to cover several other indictments. In these cases, that defendant has made a bargain and received a benefit in exchange for a conviction for a particular crime. Nevertheless, on appeal, defendant may continue to argue that he or she should be relieved of the bargain freely made. This increases the heavy burden on our appellate courts, and, if the conviction is ultimately reversed, the passage of time may have severely impaired the prosecution's case.

This measure would provide that a negotiated plea will constitute a waiver of defendant's right to appeal from an order denying a suppression motion, unless both defendant and prosecutor stipulate that the former's right to appeal is to be preserved. It is certainly not unfair to require a defendant, as part of a plea bargain, to recognize that the bargain is final and that previous rulings are out of the case. The defendant could still appeal the excessiveness of the sentence or anything else not included in the plea agreement. Of course, in cases where there have been no plea bargains, defendants who have pled guilty will continue to enjoy the right to appeal from a denial of a suppression motion.

The Court of Appeals has approved the prosecutorial practice of exacting a waiver of appeal from a denial of suppression as part of a negotiated plea. *People* v. *Williams*, 36 NY 2d 829 (1975). Moreover, the Appellate Division, Second Department, has suggested that the Legislature should preclude appeals from a denial of a suppression motion under such circumstances. *People* v. *Navarro*, 61 AD 2d 534 (1978). That is the object of this measure.

AN ACT

To Amend the criminal procedure law, in relation to a waiver of appeal of a denial of a motion to suppress evidence.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 220.50 of the criminal procedure law is amended by adding a new subdivision six to read as follows:

6. Where a defendant offers to enter a plea of guilty to part of an indictment, or to an entire indictment or part of an indictment constituting a complete disposition of one or more other indictments against the defendant then pending, after an order finally denying his motion to suppress evidence made pursuant to article seven hundred ten of this chapter, the court must inform him that entry of such plea will constitute a waiver of his right to appeal from such order, as authorized by subdivision two of section 710.70, unless both he and the prosecutor agree, either on the record or in a writing filed with the indictment, that he may appeal from such order.

§2. Subdivision two of section 710.70 of such law is amended to read as follows:

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty*; provided, however, where judgment is entered upon a plea of guilty to part of an indictment, as provided in section 220.30, or upon a plea of guilty, whether to an indictment or to part of an indictment, which constitutes a complete disposition of one or more other indictments against the defendant then pending, such order may not be reviewed upon appeal unless, upon entry of the plea, both the defendant and the prosecutor agree, either on the record, or in a writing filed with the indictment, that*

the defendant may appeal from such order.

§3. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

K. Separation of Jury During Deliberations.

It is recommended that section 310.10 of the Criminal Procedure Law be amended to authorize a court to permit a deliberating jury to separate temporarily, including overnight and on weekends and holidays. This would facilitate and encourage jury service, reduce the potentially coercive impetus to arrive at a prompt verdict and save the expense necessitated by prolonged sequestration in cases in which there is no likelihood of jury tampering or influence.

Section 310.10 now provides that a deliberating jury "must be continuously kept together under the supervision of a court officer or court officers" or other personnel. This requires that deliberating jurors be kept in hotel rooms or other accommodations, fed and guarded during deliberations. This rule is in marked contrast to the more flexible approach employed in the federal courts, where sequestration is within the court's discretion.

Our proposal would amend New York's rigid rule by allowing dispersal when the court so authorizes. Dispersal should be the rule rather than the exception. In most cases the jury is not sequestered during the trial itself, and the possibility that the jurors will defy the court's instructions and read about or discuss the case with outsiders, or that the jurors will be tampered with, should be no greater during deliberations. The possibility of exposure to news reports may be less during deliberations when the media no longer have any new evidence to report.

It is undisputed that this proposal would have a favorable impact on the State budget. An evaluation of costs of sequestering juries has indicated that its enactment could result in a saving of approximately $1,200 to $1,500 for each day a jury is not sequestered when it normally would have been, and the total potential savings in expenses for meals, lodging and transportation for jurors and overtime pay for court personnel could exceed $1,000,000 a year.

AN ACT

To Amend the criminal procedure law, in relation to authorizing the temporary separation of a deliberating jury.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 310.10 of the criminal procedure law, as amended by chapter two hundred fourteen of the laws of nineteen hundred seventy-four, is amended to read as follows:

§310.10. Jury deliberation; requirement of; where conducted.

1. Following the court's charge, the jury must retire to deliberate upon its verdict in a place outside the courtroom. It must be provided with suitable accommodations therefor and must, *except as otherwise provided in subdivision two,* be continuously kept together under the supervision of a court officer or court officers. In the event such court officer or court officers are not available, the jury shall be under the supervision of an appropriate public servant or public servants. Except when so authorized by the court or when performing administerial duties with respect to the jurors, such court officers or public servants, as the case may be, may not speak to or communicate with them or permit any other person to do so.

2. At any time after the jury has commenced its deliberations, the court, may declare the deliberations to be in recess and may thereupon direct the jury to suspend its deliberations and to separate for a reasonable period of time to be specified by the court, including Saturdays, Sundays and holidays. Before each recess, the court must admonish the jury as provided in section 270.40 and direct it to resume its deliberations when all twelve jurors have reassembled in the designated place at the termination of the declared recess.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

L. Discharge of Alternate Jurors.

It is recommended that section 270.30 of the Criminal Procedure Law be amended to provide that alternate jurors may be discharged after a jury retires for deliberations, unless defendant consents in advance to replacement of any juror by an alternate juror should the need therefor arise.

As now written, section 270.30 gives defendant the right to refuse to consent to the discharge of alternate jurors, in which event the latter must be sequestered while the jurors deliberate a verdict. Incongruously, defendant may exercise this right even though he or she may have no intention of consenting to substitution of the alternates for jurors who become incapacitated or otherwise unable to continue to serve during the deliberation process. *See* CPL §270.35.

This proposal would empower a court to require defendant, at the time the jury retires to deliberate, to agree or disagree to the substitution of alternate jurors should there be need therefor. If defendant does not agree, the court then may discharge the alternates—thereby saving time and inconvenience to the alternate jurors and sparing the public fisc of the considerable costs of their sequestration.

AN ACT

To Amend the criminal procedure law, in relation to the discharge of alternate jurors.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 270.30 of the criminal procedure law, as amended by chapter two hundred sixty-seven of the laws of nineteen hundred seventy-nine, is amended to read as follows:

§270.30. Trial jury; alternate jurors. Immediately after the last trial juror is sworn, the court may in its discretion direct the selection of one or more, but not more than four additional jurors to be known as "alternate jurors". Alternate jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges for cause and must take the same oath as the regular jurors. After the jury has retired to deliberate, the court must either (1) with the consent of the defendant and the people, discharge the alternate jurors or (2) direct the alternate jurors not to discuss the case and must further direct that they be kept separate and apart from the regular jurors. *Unless the court discharges the alternate jurors as provided in (1), it may, after the jury has retired to deliberate, require that the defendant consent in advance to replacement of any juror by an alternate juror should any of the grounds specified therefor in section 270.35 arise. Such consent must be given in the form and manner required by such section. Upon defendant's failure to provide such consent, the court may discharge the alternate jurors.*

§2. This act shall take effect thirty days after it shall have become a law.

M. Applications for Court Orders Compelling Submission to Chemical Tests.

During its 1983 Session, the Legislature enacted procedures to permit law enforcement personnel to obtain a court order compelling a driver, under certain circumstances, to submit to a chemical test to ascertain the alcoholic or drug content of his or her blood. L. 1983, c. 481. Under chapter 481, only Supreme Court justices, County Court judges and District Court judges are authorized to entertain applications and to grant such orders outside New York City. It is recommended that section 1194-a(3) of the Vehicle and Traffic Law, as added by chapter 481, be amended to extend such authorization to all judges of local criminal courts outside New York City, so long as it is exercised by a judge sitting within the municipality in which: (i) the incident occurred, (ii) the chemical test is to be conducted or (iii) the accused is located.

This proposal would remedy an anomaly under current law whereby a judge of a local criminal court is permitted to issue a search warrant (including a search warrant upon oral application) and yet is denied authority to issue analogous orders compelling submission to chemical tests. At the same time, it will have the salutary effect of increasing the number of judges available to entertain applications for chemical test orders. Hence, section 1194-a(3), requiring the Chief Administrator of the Courts to establish a schedule insuring that there are always a sufficient number of judges available to hear these applications, will no longer be necessary.

This proposal would also amend Vehicle and Traffic Law §1194-a(3)(c) to extend from 24 to 72 hours the time in which to file the transcript of an oral application for a chemical test order. The 24-hour requirement currently, in effect is unduly burdensome, particularly where the record of an application must first be transcribed from a voice recording device or stenographic notes before it can be filed. Inasmuch as a court-ordered chemical test is conducted immediately after an oral application is granted, and filing of a transcript will still be required within a reasonably short period thereafter, this proposal will occasion no prejudice to the subject of the test and no appreciable increase in the likelihood that records will be tampered with.

AN ACT

To Amend the vehicle and traffic law, in relation to applications for court orders compelling submission to chemical tests.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (a) and (c) of subdivision three of section eleven hundred ninety-four-a of the vehicle and traffic law, as added by chapter four hundred eighty-one of the laws of nineteen hundred eighty-three, are amended to read as follows:

(a) An application for a court order to compel submission to [a] *any* chemical test may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or, if the incident occurred in the city of New York, before any supreme court justice or judge of the criminal court of the city of New York. *An application for a court order to compel submission to a chemical test may also be made to any city court judge, town justice or village justice in the city, town or village, respectively, in which (i) the incident occurred, (ii) the chemical test is to be conducted, or (iii) the accused is located.* Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

(c) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within [twenty-four] *seventy-two* hours of the issuance of the court order. If longhand notes are taken, the judge shall subscribe a copy and file it with the court within [twenty-four] *seventy-two* hours of the issuance of the order.

§2. Paragraph (f) of subdivision three of section eleven hundred ninety-four-a of such law is REPEALED.

§3. This act shall take effect immediately.

REPEAL NOTE: Paragraph (f) of subdivision three of section eleven hundred ninety-four-a of the Vehicle and Traffic Law, to be repealed by this act, requires the Chief Administrator of the Courts to establish a schedule insuring that there will be a sufficient number of judges available to hear oral applications for permission to conduct a chemical test.

III. New or Modified Measures.

A. Involuntarily Made Statements.

It is recommended that sections 60.45, 710.20 and 710.70 of the Criminal Procedure Law be amended to clarify that a defendant in a criminal case may not have the question whether his confession was obtained in violation of his rights under *Miranda* v. *Arizona* submitted to the jury.

In *People* v. *Graham*, 55 NY 2d 144 (1982), the Court of Appeals announced that a trial court must read these statutes literally and must submit the question of a confession's voluntariness under *Miranda* to a jury. Apparently, this decision was not rendered without misgivings, however, as both the plurality and concurring opinions invited the attention of the Advisory Committee and the Legislature to the matter of a statutory revision. Then Associate Judge Wachtler, in particular, expressed his concern at the absence of any rational explanation for the requirement of a jury submission, pointing out that it is mandated neither by *Miranda* nor the New York State Constitution. *People* v. *Graham*, 55 NY 2d at 153 (Wachtler, J., concurring).

Graham pinpoints an anomaly in the current statutory scheme because neither the drafters of the CPL nor the Legislature ever intended that *Miranda* issues be litigated before a jury. Those issues involve questions of law, and, like search and seizure questions arising under the Fourth Amendment, are more suitable for judicial resolution. Rather, the statutory scheme was designed to be of more limited scope, bringing before a jury only true involuntariness claims (*viz.*, involving some form of duress). Accordingly, it is the purpose of this proposal to eliminate this anomaly. At the same time, however, it would preserve defendant's right to adduce evidence at a jury trial that his *Miranda* rights were violated as part of a showing that the violation was one among other causes that contributed to make his statement truly involuntary.

This proposal, recommended last year as well, has been changed to clarify that evidence that a statement was obtained in violation of defendant's *Miranda* or other constitutional rights may be introduced in support of a claim of involuntariness, but may not serve as the sole basis of such a claim.

AN ACT

To Amend the criminal procedure law, in relation to involuntarily made statements.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 60.45 of the crimninal procedure law is amended to read as follows:

§60.45 Rules of evidence; admissibility of statements defendants. 1. Evidence of a written or oral confession, admission, or other statement made by a defendant with respect to his participation or lack of participation in the offense charged, may not be received in evidence against him in a criminal proceeding if such statement was involuntarily made *or otherwise unconstitutionally obtained.*

2. A confession, admission or other statement is "involuntarily made" by a defendant when it is obtained from him:

(a) By any person by the use or threatened use of physical force upon the defendant or another person, or by means of any other improper conduct or undue pressure which impaired the defendant's physical or mental condition to the extent of undermining his ability to make a choice whether or not to make a statement; or

(b) By a public servant engaged in law enforcement activity or by a person then acting under his direction or in cooperation with him[;

(i)] by means of any promise or statement of fact, which promise or statement creates a substantial risk that the defendant might falsely incriminate himself[; or

(ii) in violation of such rights as the defendant may derive from the constitution of this state or of the United States].

3. A confession, admission or other statement is "unconstitutionally obtained" from a defendant when it is obtained in violation of such rights as he may derive from the constitution of this state or of the United States.

§2. Subdivision three of section 710.20 of such law is amended to read as follows:

3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made *or otherwise unconstitutionally obtained*, within the meaning of section 60.45, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him; or

§3. The last unnumbered paragraph of section 710.70 of such law is amended to read as follows:

Nothing contained in this article, however, precludes a defendant from attempting to establish at a trial that evidence introduced by the people of a pre-trial statement made by him should be disregarded by the jury or other trier of the facts on the ground that such statement was involuntarily made within the meaning of *subdivision two of* section 60.45. Even though the issue of the admissibility of such evidence was not submitted to the court, or was determined adversely to the defendant upon motion, the defendant may adduce trial evidence and otherwise contend that the statement was involuntarily made. *Evidence that the statement was unconstitutionally obtained within the meaning of subdivision three of section 60.45 may be introduced in support of a claim that a statement was involuntarily made, but may not serve as the sole basis of such a claim.* In the case of a jury trial, the court must submit [such] *the* issue *whether a defendant's statement was involuntarily made* to the jury under instructions to disregard such evidence upon a finding that the statement was involuntarily made.

§4. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

B. Removal of Sworn Jurors from the Jury Box.

It is recommended that subdivision three of section 270.15 of the Criminal Procedure Law be amended to permit the court, in its discretion and without the consent of counsel, to remove sworn jurors from the jury box.

Under current law, the following procedures are observed during the *voir dire* in a criminal case: (1) the jury box is filled with at least 12 prospective jurors from the panel, all of whom must then be sworn; (2) the parties examine these prospective jurors regarding their qualifications to serve; (3) the parties exercise their challenges; (4) jurors who are challenged are excluded from service and those not challenged are sworn as trial jurors; and (5) the court may then order that the excluded persons be replaced by an equal number of additional prospective jurors from the panel or, with the parties' consent, order that the sworn jurors be seated elsewhere in the courtroom or altogether removed therefrom, and that the jury box be filled anew with prospective jurors from the panel.

Our proposal would eliminate the parties' right to determine whether sworn jurors may be removed from the jury box while the *voir dire* continues. It is prompted by concerns that the already slow and expensive process of jury selection in a criminal case can be slowed even further by a party's occasional refusal to consent to removal of sworn jurors from the jury box. This delays the juror selection process by reducing the number of prospective jurors who may be examined at any one time and causes considerable inconvenience to the jurors already sworn, who must continue to sit through a selection process that already has ended as to themselves. While refusal occurs only rarely, we believe that, in the face of its disruptive impact on proceedings and the inconvenience it can cause the court, persons in the jury pool and the other parties, it ought not to be permitted at all.

This proposal, recommended last year as well, has been changed from last year's proposal to retain the requirement of obtaining the consent of the parties before sworn jurors may be removed from the courtroom itself, as opposed to removal only from the jury box.

AN ACT

To Amend the criminal procedure law, in relation to removal of sworn jurors from the jury box or jury room.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 270.15 of the criminal procedure law, as amended by chapter three hundred one of the laws of nineteen hundred eighty-one, is amended to read as follows:

3. The court may thereupon direct that the persons excluded be replaced in the jury box by an equal number from the panel or, in its discretion [with consent of the parties], direct that all sworn jurors be removed from the jury box and [be replaced] *that the jury box be occupied* by such *additional* number *of persons from the panel* as the court shall direct. Sworn jurors who are removed from the jury box as provided herein shall be seated elsewhere in the courtroom separate and apart from the unsworn members of the panel. Upon the consent of both parties, the presence of the sworn jurors in the courtroom during the remainder of jury selection may be waived in which case the sworn jurors may be removed to the jury room. The process of jury selection as prescribed herein shall continue until twelve persons are selected and sworn as trial jurors. The juror whose name was first drawn and called must be designated by the court as the foreman, and no special oath need be administered to him. If before twelve jurors are sworn, a juror already sworn becomes unable to serve by reason of illness or other incapacity, the court must discharge him and the selection of the trial jury must be completed in the manner prescribed in this section.

§2. This act shall take effect thirty days after it shall have become a law.

C. Decision on Motion to Suppress Identification Testimony.

It is recommended that subdivision three of section 710.40 of the Criminal Procedure Law be amended to allow a court to defer the hearing and determination of a motion to suppress identification testimony until after the trial has commenced.

Under present law, all motions to suppress evidence must be decided before trial. In the context of a *Wade* hearing, this means that crime victims or other persons who will give identification testimony must make multiple court appearances. Apart from the great personal inconvenience this may occasion, which itself may have the effect of discouraging such persons from coming forward to testify at the time of trial, it also may expose them to efforts at intimidation. *See People* v. *Vargas*, 118 Misc. 2d 477 (Sup. Ct. N.Y. Co. 1983).

This salutary proposal would permit a court, in its discretion and with consent of the prosecutor, to minimize the number of court appearances an identification witness must make by postponing its hearing and determination of a *Wade* motion until after trial has commenced. In order to protect the defendant's rights, the hearing would be held outside the presence of the jury. The prosecutor's consent is necessary to offset the latter's loss of a right of appeal from an adverse decision on the *Wade* motion (*see* CPL §450.20(8)) once trial begins.

This proposal, recommended last year as well, has been changed from last year's proposal to provide that testimony of non-police witnesses on a motion to suppress identification testimony may be deferred until trial only where the court finds that the challenged identification occurred at a police-arranged confrontation and that there is no reason to believe that the identification was the product of improper suggestion. The proposal has been further modified to provide that determination of a *Wade* motion shall not be deferred where defendant demonstrates good cause why the non-police witnesses should testify and a decision should be rendered prior to the commencement of trial.

AN ACT

To Amend the criminal procedure law, in relation to certain motions to suppress evidence.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 710.40 of the criminal procedure law, as amended by chapter two hundred seventy-three of the laws of nineteen hundred seventy-seven, is amended to read as follows:

3. When the motion is made before trial, the trial may not be commenced until determination of the motion; provided, however, that when a hearing is held

on a motion to suppress evidence based upon the ground specified in subdivision six of section 710.20, and the court finds from the evidence offered at such hearing that (a) the challenged identification occurred at a confrontation arranged by the police and (b) there is no reason to believe that the identification was the product of improper suggestion; and either party wishes to call a witness or witnesses, other than a police officer, who will be testifying at the trial, the court may , with the consent of the prosecutor, defer the testimony of the non-police witness or witnesses, continue the hearing and reserve decision on the motion until after the trial has commenced, unless good cause be shown why the witness or witnesses should testify and the decision should be rendered before commencement of the trial. In the event that a continuance of the suppression hearing is granted hereunder in a case tried by a jury, the court must hear the witness or witnesses on the issue of suppression outside the presence of the jury and must render decision on the motion before the witness or witnesses testify before the jury.

§2. This act shall take effect ninety days after it shall have become a law.

D. Establishment of a Procedure for Securing Evidence by Use of Electronic Video Surveillance.

It is recommended that the Criminal Procedure Law be amended by the addition of a new Article 695, to establish statutory guidelines for the use of video electronic surveillance as an extraordinary means of obtaining evidence of criminal activity. Legislative action establishing such guidelines was recommended by the New York Court of Appeals in *People* v. *Teicher*, 52 NY 2d 638 (1981).

The principal features of the proposed new article, modeled after Articles 690 (search warrants) and 700 (eavesdropping) of the Criminal Procedure Law, include:

Proposed section 695.05

This section defines critical terms employed in new Article 695. Of special note, "video surveillance" is defined to be "... the intentional visual observation of a person by means of a television camera or other similar electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or videotape, and under circumstances whereby such observation, in the absence of a video surveillance warrant, infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States." Also, a "video surveillance warrant" is defined to be an order of a justice of the Appellate Division or of the Supreme Court, or an order of a county court judge, "authorizing video surveillance."

Proposed section 695.10

This section sets forth general restrictions applicable to a video surveillance warrant. In particular, the warrant may only be executed by a police officer, peace officer or district attorney, or a person acting pursuant to such an official's direction, and it may not authorize surveillance of a specific person for any period longer than 30 days (or until the objective of the surveillance is achieved, if sooner).

Proposed section 695.15

This section describes the circumstances under which a video surveillance warrant may issue. *First,* it must be upon a proper application. *Second,* there must be probable cause to believe that the person who will be the object of video surveillance is committing or is about to commit an offense. *Third,* there must be probable cause to believe that activity related to the commission of such offense will be observed through video surveillance. *Fourth,* normal nonelectronic investigative procedures must first be exhausted unsuccessfully or demonstrated to be unavailing if attempted. *Fifth,* there must be probable cause to believe that the place where video surveillance is to be conducted is being used in connection with the offense or is somehow linked with the person to be subject to such surveillance.

Proposed section 695.20

This section prescribes the contents of an application for a video surveillance warrant. Such an application must be made *ex parte* and in writing.

Proposed section 695.25

This section provides that a judge or justice may grant an application and issue the video surveillance warrant, deny the application, or require the applicant to furnish additional testimony or documentary evidence in support of the application.

Proposed section 695.30

This section describes the form and content of a video surveillance warrant. Required are: specific information concerning the issuance of the warrant (applicant, court etc.); the identity, if known, of the person(s) to be subject to video surveillance;descriptions of the place(s) to be subject to such surveillance, the activity sought to be observed and the offense to which it relates; the identity of the person(s) who will conduct the surveillance; specification as to time period during which surveillance is authorized; a minimization provision; and, if necessary, express authorization to make secret entry upon premises to install any equipment required to conduct surveillance.

Proposed section 695.35

This section expressly provides that a video surveillance warrant must be executed according to its terms, and any surveillance thereunder must cease upon termination of the authorization in the warrant.

Proposed section 695.40

This section, substantially similar to section 700.40, authorizes issuance of an order of extension of a video surveillance warrant. The extension may not exceed 30 days, and is available only upon a proper application (which must satisfy the same requirements as the initial application for a warrant) supplemented by a summary of the activities observed through surveillance to date and an explanation for the failure thus far to achieve the warrant's objective.

Proposed section 695.45

This section substantially similar to section 700.50, provides that the judge or justice who issues a video surveillance warrant may require periodic progress reports. It also requires that, upon termination of authorized surveillance, all tapes or records shall be made available to the judge or justice who issued the warrant therefor and sealed under his directions. Within 90 days of the termination of a video surveillance warrant (or an extension order), written notice of particulars relating to its issuance and its execution must be served upon persons named in the warrant. Thereafter, any person so served may, in the court's discretion, inspect tapes or records or the video surveillance warrant (and any extension orders) or applications therefor.

Proposed section 695.50

This section, substantially similar to section 700.55, provides for the custody of applications for video surveillance warrants and the warrants, if any, issued by a judge or justice.

Proposed section 695.55

This section, substantially similar to section 700.65, regulates disclosure and use of information derived from authorized video surveillance.

Proposed section 695.60

This section, substantially similar to section 700.70, provides for the exclusion at trial of the contents of any recording made pursuant to a video surveillance warrant, and any evidence derived therefrom, unless the prosecutor serves defendant with a copy of the video surveillance warrant and the application therefor within 15 days following arraignment. The court may, however, upon a showing of good cause and a finding of no prejudice to defendant, extend the 15 day period.

We are not unmindful of the distinctly Orwellian overtones of this proposal. In the surreptitious viewing and recording of a private person's activities, there looms the spectre of "Big Brother" and all of the abuses so vividly portrayed in that classic work of fiction, *1984*. We point out, however, that this proposal would not operate to permit video surveillance; rather, it is intended to circumscribe its use as an investigative technique by police and prosecutors in a fashion designed to safeguard the rights and privacy of the public.

In the *Teicher* case, a unanimous Court of Appeals declared that "a warrant may issue to authorize the video taping of evidence to be admitted at a subsequent [criminal] trial, provided certain procedures are followed and certain safeguards are observed." 52 NY 2d 642. The defendant there, a dentist, had been convicted of sexually abusing two of his female patients while they were sedated. On appeal, defendant had contended that the videotape of one of his patient's visits, recorded by a camera secreted in a treatment room pursuant to a warrant, should not have been admitted into evidence.

Defendant's convictions were affirmed by the Court of Appeals, over defendant's contention that Title III of the Federal Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. §§2510-2520) precludes electronic surveillance in cases of sexual abuse arising out of the victim's incapacity to consent because the offense is not among those crimes enumerated in subdivision 2 of 18 U.S.C. §2516. *See People* v. *Shapiro*, 50 NY 2d 747 (1980). The Federal wiretapping statute, the Court held, does not pre-empt state law in the field of video electronic surveillance, for it does not apply to—nor does it prohibit—the type of surveillance challenged.

More importantly, the *Teicher* Court rejected defendant's argument that video surveillance is so intrusive that it must be prohibited on the ground that it is unreasonable *per se* under the Fourth Amendment. The Court wrote: "... the Fourth Amendment does not mandate an absolute ban on video surveillance any more than it mandates a total prescription on electronic eavesdropping." 52NY 2d at 653. Moreover, the warrant used in *Teicher*, although improvised because of the absence of statutory guidelines relating to application therefor and to proper form and content, nonetheless met the constitutional requirements outlined for aural eavesdropping in *Berger* v. *New York*, 388 U.S. 41 (1967), and *Katz* v. *United States*, 389 U.S. 347 (1967), which the Court of Appeals now declares to be equally applicable to video electronic surveillance.

Although upholding video surveillance in *Teicher*, the Court of Appeals expressly limited its opinion, and the guidance to be drawn from it:

> As we have stressed, the constitutional requirements outlined for eavesdropping in *Berger* v. *New York* (388 U.S. 41, *supra*), and *Katz* v. *United States (389 U.S. 347, supra*) are equally applicable to the area of video surveillance. While we have discussed several of these requirements in the instant case, our opinion should not be construed as an inventory of each of the necessary elements for such a warrant. The degree of intrusiveness inherent in video electronic surveillance demands unswerving adherence to each of the limitations placed upon the use of this device. *Moreover, because use of this investigative technique poses a threat to the privacy of citizens, legislative scrutiny of the field and the enactment of specific guidelines would appear to be in order.* (emphasis supplied). 52 NY 2d at p. 656.

This proposal would implement the Court's suggestion. It prescribes strict conditions to be met before a judge may issue a warrant authorizing video surveillance, and equally strict procedures to be followed in the warrant's execution. Significantly, it authorizes issuance of a video surveillance warrant only as a last resort, when it is clear that all normal nonelectronic investigative techniques have failed to produce evidence, or would fail if tried. *See* proposed §695.20 (2)(d). The *Berger/Katz* standards as to eavesdropping are embraced; accordingly, probable cause, specificity and minimization standards have been included and patterned after those set forth in Article 700 of the Criminal Procedure Law [eavesdropping warrants]. Provisions for recording, extension orders, notice, sealing, and the disclosure and use of information derived from the video surveillance have also been included, likewise paralleling those prescribed by Article 700.

This proposal, recommended last year as well, has been changed from last year's proposal to refine the definition of "video surveillance," and to provide that the identity of the person to be subject to video surveillance need not be specified in a video surveillance warrant application or a video surveillance warrant if the identity of such person is unknown. The proposal has been modified further to eliminate the requirement that eavesdropping procedures be exhausted, or demonstrated to be unavailing if attempted, before a video surveillance warrant may issue.

AN ACT

To Amend the criminal procedure law, in relation to securing evidence by use of video surveillance.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article six hundred ninety-five to read as follows:

Article 695-VIDEO SURVEILLANCE WARRANTS

§*695.05 Video surveillance warrants; definition of terms.*

§*695.10 Video surveillance warrants; in general.*

§*695.15 Video surveillance warrants; when issuable.*

§*695.20 Video surveillance warrants; application.*

§*695.25 Video surveillance warrants; determination of application.*

§*695.30 Video surveillance warrants; form and content.*

§*695.35 Video surveillance warrants; manner and time of execution.*

§*695.40 Video surveillance warrants; order of extension.*

§*695.45 Video surveillance warrants; progress reports and notices.*

§*695.50 Video surveillance warrants; custody of warrants, applications and recordings.*

§*695.55 Video surveillance warrants; disclosure and use of information; order of amendment.*

§*695.60 Video surveillance warrants; notice before use of evidence.*

§*695.05 Video surveillance warrants; definition of terms.*

As used in this article, the following terms have the following meanings:

1. "Video surveillance" means the intentional visual observation of a person by means of a television camera or other similar electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or videotape, and under circumstances whereby such observation, in the absence of a video surveillance warrant, infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States.

2. "Video surveillance warrant" means an order issued by a justice authorizing video surveillance.

3. "Justice", except as otherwise provided herein, means any justice of an appellate division of the judicial department in which the video surveillance warrant is to be executed, or any justice of the supreme court of the judicial district in which the video surveillance warrant is to be executed, or any county court judge of the county in which the video surveillance warrant is to be executed.

4. "Exigent circumstances" means conditions requiring the preservation of secrecy, and whereby there is a reasonable likelihood that a continuing investigation would be thwarted by alerting any of the persons subject to surveillance to the fact that such surveillance had occurred.

5. "Law enforcement officer" means any police officer, peace officer or district attorney.

6. "Specified offense" means any felony defined by the penal law or an attempt to commit any such felony.

§695.10 Video surveillance warrants; in general, 1. Under circumstances prescribed in this article, a justice may issue a video surveillance warrant upon ex parte application of a district attorney or the attorney general.

2. A video surveillance warrant may only be executed by a law enforcement officer or a person acting pursuant to his direction or in cooperation with him.

3. No video surveillance warrant may authorize or approve the video surveillance of any specified person for any period longer than is necessary to achieve the objective of the authorization, or in any event longer than thirty days.

§695.15. Video surveillance warrants; when issuable. A video surveillance warrant may be issued only upon: 1. An appropriate application made in conformity with this article; and

2. Probable cause to believe that a particularly described person is committing or is about to commit a specified offense; and

3. Probable cause to believe that a particular activity related to the commission of the specified offense will be observed through the use of video surveillance; and

4. A showing that normal, nonelectronic investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried, or to be too dangerous to employ; and

5. Probable cause to believe that the place where the video surveillance is to be conducted is being used, or is about to be used, in connection with the commission of the specified offense, or is leased to, listed in the name of, or commonly used by such person.

§695.20 Video surveillance warrants; application. 1. An ex parte application for a video surveillance warrant must be made to a justice in writing, and must be subscribed and sworn to by the applicant therefor.

2. The application must contain: (a) The identity of the applicant and a statement of the applicant's authority to make such application; and

(b) A particular description of the place or places where the video surveillance is to be conducted, and the identity, if known, of the person or persons whose activities are sought to be observed; and

(c) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that a video surveillance warrant should be issued, including a statement of facts supporting a finding of probable cause to believe the matters set forth in subdivisions two, three and five of section 695.15; and

(d) A full and complete statement of facts establishing that normal, nonelectronic investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ, to obtain the evidence sought; and

(e) A statement of the period of time for which the video surveillance is required to be maintained. If the nature of the investigation is such that the authorization for video surveillance should not automatically terminate when the described type of activity has been first observed, a particular description of facts establishing probable cause to believe that additional activity of the same type will occur thereafter; and

(f) A full and complete statement of facts concerning all previous applications, known to the applicant, for a video surveillance warrant involving any of the same persons or places specified in the application, and the action taken by the justice on each such application.

3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described, and the application must contain facts establishing the existence and reliability of the informants or the reliability of the information supplied by them. The application must *also state, so far as possible, the basis of the informant's knowledge or belief. Affidavits of persons other than the applicant may be submitted in conjunction with the application if they tend to support any fact or conclusion alleged therein. Such accompanying affidavits may be based either on personal knowledge of the affiant, or information and belief with the source thereof and the reason therefor specified.*

§695.25 Video surveillance warrants; determination of application. 1. If the application conforms to section 695.20, the justice may require the applicant to furnish additional testimony or documentary evidence in support of the application. He may examine, under oath, any person for the purpose of determining whether grounds exist for the issuance of the warrant pursuant to section 695.15. Any such examination must be either recorded or summarized in writing.

2. If the justice determines on the basis of the facts submitted by the applicant that grounds exist for the issuance of a video surveillance warrant pursuant to section 695.15, the justice may grant the application and issue a video surveillance warrant, in accordance with section 695.30.

3. If the application does not conform to section 695.20, or if the justice is not satisfied that grounds exist for the issuance of a video surveillance warrant, the application must be denied.

§695.30 Video surveillance warrants; form and content. A video surveillance warrant must contain: 1. The name of the applicant, date of issuance, and the subscription and title of the issuing justice; and

2. The identity of the person or persons, if known, whose activities are to be subject to video surveillance; and

3. The place or places to be subject to video surveillance; and

4. A particular description of the activity sought to be observed, and a statement of the specified offense to which it relates; and

5. The identity of the person or persons authorized to conduct the video surveillance; and

6. The period of time during which the video surveillance is authorized, including a statement as to whether or not it shall automatically terminate when the described activity has been first observed; and

7. A provision that the authorization for video surveillance shall be executed as soon as practicable, shall be conducted in such a way as to minimize the surveillance of activities not specifically sought, by the terms of the warrant, to be observed and must terminate upon attainment of the authorized objective, or in any event in thirty days; and

8. An express authorization to make secret entry upon a private place or premises to install any instrument, device or equipment necessary to conduct video surveillance, if such entry is necessary to execute the warrant.

§695.35 Video surveillance warrants; manner and time of execution. 1. A video surveillance warrant must be executed according to its terms by the person or persons authorized therein.

2. Upon termination of the authorization in the warrant, video surveillance as provided therein must cease and any instrument, device or equipment installed for such purpose must be removed or permanently inactivated as soon as practicable. Entry upon a private place or premise for the removal or permanent inactivation of such instrument, device or equipment is deemed to be authorized by the warrant.

3. Any activity observed by video surveillance by any means authorized by this article must be recorded. The recording of such activity must be done in such a way as will protect the recording from editing or other alterations.

§695.40 Video surveillance warrants; order of extension. Any time prior to the expiration of a video surveillance warrant, the applicant may apply to the issuing justice, or, if he is unavailable, to another justice, for an order of extension. The period of extension shall be no longer than the justice deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. The application for an order of extension must conform in all respects to the provisions of section 695.20 and, in addition, must contain a statement summarizing the activities thus far observed through the video surveillance, together with a reasonable explanation for the failure to achieve completely the warrant's authorized objective.

The provisions of section 695.15 and 695.25 are applicable in the determination of such application. The order of extension must conform in all respects to the provisions of section 695.30. In the execution of such order of extension the provisions of section 695.35 are applicable.

§695.45 Video surveillance warrants; progress reports and notice, 1. A video surveillance warrant may require reports to be made to the issuing justice showing what progress has been made toward achievement of the authorized objective and the need for continued video surveillance. Such reports shall be made at such intervals as the justice may require.

2. Immediately upon the expiration of the period of a video surveillance warrant, the records made pursuant to subdivision three of section 695.35 must be made available to the issuing justice and sealed under his directions.

3. Within a reasonable time, but in no case later than ninety days after termination of a video surveillance warrant, or expiration of an extension order, except as otherwise provided in subdivision four of this section, written notice of the fact and date of the issuance of the video surveillance warrant, and of the period of authorized video surveillance, and of the fact that during such period, activities of any person or persons were or were not observed through such surveillance, must be personally served upon each person named in the warrant and such other parties to the observed activities as the justice may determine in his discretion is in the interest of justice. The justice, upon the filing of a motion by any person served with such notice, may in his discretion make available to such person or his counsel for inspection such portions of the records made pursuant to subdivision three of section 695.35, any video surveillance warrant or order of extension and any applications therefor as the justice determines to be in the interest of justice.

4. On a showing of exigent circumstances to the issuing justice, the service of the notice required by subdivision three of this section may be postponed by order of the justice for a reasonable period of time. Renewals of an order of postponement may be obtained on a new showing of exigent circumstances.

§695.50 Video surveillance warrants; custody of warrants, applications and recordings. 1. Applications made and warrants issued under this article shall be sealed by the justice. Any video surveillance warrant, together with a copy of papers upon which the application is based, shall be delivered to and retained by the applicant as authority for the surveillance authorized therein. A copy of such video surveillance warrant, together with all the original papers upon which the application was based, must be retained by the justice issuing the same, and, in the event of the denial of an application for such a video surveillance warrant, a copy of the papers upon which the application was based must be retained by the justice denying the same. Such applications and warrants may be disclosed only upon a showing of good cause before a court and may not be destroyed except on order of the issuing or denying justice, and in any event must be kept for ten years.

2. Custody of the recordings made pursuant to subdivision three of section 695.35 may be wherever the justice orders. They may not be destroyed except upon an order of the justice who issued the warrant and in any event must be kept for ten years, Duplicate recordings may be made for use or disclosure pursuant to the provisions of subdivisions one and two of section 695.55 for investigations.

§695.55 Video surveillance warrants; disclosure and use of information; order of amendment. 1. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any recording of an observed activity, or evidence derived therefrom, may disclose such contents to another law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of any of the contents recording of an observed activity, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of his official duties.

3. Any person who has received, by any means authorized by this article, any information concerning an activity, or evidence derived therefrom, observed in accordance with the provisions of this article, may disclose that activity or such derivative evidence while giving testimony under oath in any criminal proceeding in any court or in any grand jury proceeding; provided however, that the presence of the seal provided for by subdivision two of section 695.45, or a satisfactory explanation of the absence thereof, shall be a prerequisite for the use or disclosure of any activity or evidence derived therefrom.

4. When a law enforcement officer who, by any means authorized by this article, records an activity which was not otherwise anticipated and which constitutes evidence of any crime that has been, is being or is about to be committed, the contents of such recording, and evidence derived therefrom, may be disclosed or used as provided in subdivisions one and two of this section. Such contents and any evidence derived therefrom may be used under subdivision three of this section when a justice amends the video surveillance warrant to include such contents. The application for such amendment must be made by the applicant as soon as practicable. If the justice finds that such contents were recorded in accordance with the provisions of this article, he may grant the application.

§695.60 Video surveillance warrants; notice before use of evidence. The recording of any activity, or evidence derived therefrom, may not be received in evidence or otherwise disclosed upon a trial of a defendant unless the people, within fifteen days after arraignment and before the commencement of the trial furnish the defendant with a copy of the video

surveillance warrant and accompanying application, under which recording was authorized or approved. This fifteen day period may be extended by the trial court upon good cause shown if it finds that the defendant will not be prejudiced by the delay in receiving such papers.

§2. Section 710.20 of such law, as amended by chapter eight of the laws of nineteen hundred seventy-six, subdivision three as amended by chapter two hundred fourteen of the laws of nineteen hundred eighty-two, subdivision five as added and subdivision six as so renumbered by chapter four hundred eighty-one of the laws of nineteen hundred eighty-three, is amended to read as follows:

§710.20 Motion to suppress evidence; in general; grounds for. Upon motion of a defendant who (a) is aggrieved by unlawful or improper acquisition of evidence and has reasonable cause to believe that such may be offered against him in a criminal action, or (b) claims that improper identification testimony may be offered against him in a criminal action, a court may, under circumstances prescribed in this article, order that such evidence be suppressed or excluded upon the ground that it:

1. Consists of tangible property obtained by means of an unlawful search and seizure under circumstances precluding admissibility thereof in a criminal action against such defendant; or

2. Consists of a record or potential testimony reciting or describing declarations or conversations overheard or recorded by means of eavesdropping, obtained under circumstances precluding admissibility thereof in a criminal action against such defendant; or

3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made, within the meaning of section 60.45; or

4. *Consists of video surveillance accomplished in violation of the provisions of article six hundred ninety-five; or*

5. Was obtained as a result of other evidence obtained in a manner described in [subdivisions] *subdivision* one, two [and], three *or four;* or

[5] *6.* Consists of a chemical test of the defendant's blood administered in violation of the provision of section eleven hundred ninety-four-a of the vehicle and traffic law or any other applicable law; or

[6] *7.* Consists of potential testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the prospective trial of such charge owing to an improperly made previous identification of the defendant by the prospective witness.

§3. This act shall take effect on the sixtieth day after it shall have become a law.

E. Amendment of Indictments

It is recommended that the Criminal Procedure Law be amended, by the addition of a new Article 205, to establish a procedure for amending an indictment, prior to retrial, to charge lesser included offenses of counts that have been disposed of under such circumstances as to preclude defendant's retrial thereon. Legislative action permitting such amendments was recommended to the Advisory Committee by the Court of Appeals.

In *People* v. *Mayo*, 48 NY 2d 245 (1979), defendant was charged with robbery in the first degree. The trial court refused to submit that charge to the jury, submitting instead the lesser included offenses of robbery in the second and third degrees. The jury was unable to reach a verdict on these lesser charges and a mistrial was declared. Defendant was then retried on the original indictment. Although the first degree robbery count was not submitted to the jury at the second trial, the Court of Appeals held that it was improper to retry defendant on the original indictment. The Court reasoned that since the sole count of the indictment could not be retried because of the prohibition against double jeopardy, nothing remained to support further criminal proceedings under that accusatory instrument. 48 NY 2d at 253. Impliedly, this holding also foreclosed amendment of the original indictment to charge the lesser included offenses on which retrial was not prohibited. Accordingly, the practical effect of the Court's holding is to require re-presentation of cases to grand juries. This consumes the time and resources of district attorneys, grand juries and witnesses alike, without any concomitant benefit to defendant. See *People* v. *Gonzales*, 96 AD 2d 847 (2d Dept. 1983) (*Titone*, J., dissenting).

In a footnote to its holding in *Mayo*, the Court noted its belief that "there would have been no constitutional or statutory bar to a retrial" had the People obtained a new indictment containing only the second and third degree robbery counts. 48 NY 2d at 250 (*see* footnote 2). In accordance with this observation and at the request of the Court of Appeals, the Advisory Committee undertook to prepare remedial amendments to the Criminal Procedure Law.

This measure, which reflects those amendments, would establish a new Article 205 of the Criminal

Procedure Law setting forth a procedure whereby an indictment may be amended prior to retrial to charge lesser included offenses of counts that have been disposed of at the first trial, whether or not such lesser included offenses were submitted to the jury at the initial trial. It would require the People to make a **written application to amend the indictment, on notice to defendant, at least 20 days prior to the new trial. Further, the People would be required to file a copy of the indictment, as it is proposed to be amended, with their application, and to serve a copy of the amended indictment upon defendant. These provisions are intended to insure that the functions of an indictment—to give defendant adequate notice of the charges against him—are not compromised by the amendment procedure.**

AN ACT

To Amend the criminal procedure law in relation to amendment of indictments.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article two hundred five to read as follows:

ARTICLE 205

RETRIAL OF LESSER INCLUDED OFFENSES

§*205.10. Procedure for amending indictment where retrial is ordered.*

§*205.10. Procedure for amending indictment where retrial is ordered. Notwithstanding any other provision of law, whenever (a) an offense charged in a count of an indictment is disposed of under such circumstances as to preclude defendant's retrial thereon and (b) a new trial is ordered, the trial court may, upon application of the people and with notice to the defendant and opportunity to be heard, order the amendment of the indictment to charge any lesser included offenses, as defined in section 1.20(37), of such offense, whether or not such lesser included offenses were submitted to the finder of fact upon trial of the original indictment, provided, however, that the indictment may not be amended to charge a lesser included offense that was disposed of under such circumstances as to preclude defendant's retrial thereon. Such application must include a copy of the indictment as it is proposed to be amended and must be made, in writing, at least twenty days prior to commencement of the new trial. Upon granting an application hereunder, the trial court shall order the people to file the amended indictment with the court and to cause defendant to be furnished with a copy thereof.*

§2. This act shall take effect immediately.

F. Unsealing Grand Jury Reports

It is recommended that section 190.90(4) of the Criminal Procedure Law be amended to correct a technical error. Section 190.90(4) now provides that upon *affirmance* of an order sealing a grand jury report, the report shall be filed as a public record. What the Legislature obviously intended was that such filing should follow *reversal* of an order sealing the report. Thus, this measure would substitute the word "reversal" for the word "affirmance."

AN ACT

To Amend the criminal procedure law, in relation to the unsealing of grand jury reports.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section 190.90 of the criminal procedure law is amended to read as follows:

4. The record and all other presentations on appeal shall remain sealed, except that upon [affirmance] *reversal* of the order sealing the report or dismissal of the appeal of the named public servant by the appellate division, the report of the grand jury, with the appendix, if any, shall be filed as a public record as provided in subdivision three of section 190.85.

§2. This act shall take effect immediately.

G. Proof of Purchase of Child Seating System

It is recommended that subdivision six of section 1229-c of the Vehicle and Traffic law be amended to provide that a fine for violating the mandatory seat belt law provisions relating to restraint of children under age 4 (VTL §1229-c(1), (2)) may be waived only where the court is supplied with proof that a child seating system has been purchased or rented since the date of the violation.

The purpose of this measure is to correct a loophole in section 1229-c. Subdivisions one and two of section 1229-c require that children under the age of four be restrained in specially-designed car seats meeting Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213. Subdivision five of that section

provides that a violation of any of the provisions of 1129-c shall be punishable by a civil fine, not exceeding 50 dollars. Subdivision six, however, requires the court to waive any such fine where the violation of section 1229-c involves failure to comply with its requirements concerning seat restraints for children under four and the court is presented with proof that the violator has "purchased or rented a child seating system...on or before the appearance date [of his or her] violation."

Herein lies the loophole. It has been pointed out to the Advisory Committee that subdivision six prescribes no date *after which* a violator, seeking to benefit from the waiver provision, must have purchased the necessary seating system. Thus, the statute would seem to require that, where a violator was convicted for failing to use a seating system that he or she already owned at the time the violation occurred, he or she would be entitled to a waiver of the fine. The Legislature cannot have intended such an anomaly. Accordingly, this measure would amend subdivision six of section 1229-c to clarify that waiver of the fine may be ordered only where a child seating system is purchased after the date of the violation.

AN ACT

To Amend the vehicle and traffic law, in relation to proof of purchase of child system.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision six of section twelve hundred twenty-nine-c of the vehicle and traffic law, as added by chapter three hundred sixty-five of the laws of nineteen hundred eighty-four, is amended to read as follows:

6. The court shall waive any fine for which a person who violates the provisions of this section would be liable with respect to passengers under the age of four if such person supplies the court with proof that, *between the date on which he is charged with having violated this section and the appearance date for such violation*, he [has] purchased or rented a child seating system which meets the requirements of subdivision one of this section [on or before the appearance date for such violation].

§2. This act shall take effect immediately.

IV. Conclusion

The Committee will continue to meet regularly to study and discuss all significant proposals affecting criminal law and procedure. We express our gratitude to the Chief Administrator of the Courts and the Judicial Conference for their support in achieving our shared objective of improving the criminal law.

Respectively submitted,
THE ADVISORY COMMITTEE ON
CRIMINAL LAW AND PROCEDURE

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Hon. Joseph W. Bellacosa
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February, 1985

1985 Report

of the

Family Court Advisory and Rules Committee

to the

Chief Administrator of the Courts

of the

State of New York

February, 1985

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The Family Court Advisory and Rules Committee is designated and its members appointed pursuant to section 212(b) of the Family Court Act, section 212(1)(q) of the Judiciary Law and section 80.1(b) (x) of the Administrative Delegations of the Chief Judge of the State of New York (22 NYCRR).

Its mandate is to review and draft official forms for use in Family Court proceedings and to review and draft rules affecting Family Court proceedings, subject to approval and promulgation by the Chief Administrator of the Courts or the Chief Judge, as appropriate. In addition, the Committee, when so requested, reviews and drafts legislation affecting Family Court proceedings or involving family law for comment or introduction to the Legislature. The Committee also has been mandated to advise the Chief Administrator on matters of general policy affecting administration in the Family Courts.

The Committee, in keeping with this broad-ranging mandate and its past practices, continued during the year 1984 to review and draft legislation, to review and propose amendments to rules and to review and draft official Family Court forms, as required.

Membership

The members of the Committee during the past year were: Family Court Judge Jack Turret, Chairperson; Judge Arthur J. Abrams; Judge Gene L. Catena; Judge Patricia Collins; former Family Court Judge Nanette Dembitz; Marjory D. Fields, Esq.; Peter J. Fiorella, Esq.; Judge Eugene M. Hanofee; Judge William L. Kellick, Jr.; Judge Mary Ann Killeen; Judge Leonard E. Maas; Judge Kathryn McDonald; Judge Edward J. McLaughlin; Judge Richard M. Palmer; Judge Anthony K. Pomilio; Judge Cesar H. Quinones; Judge Aileen Haas Schwartz; Supreme Court Justice Robert H. Wagner; and William G. O'Brien, Esq.; a non-voting member of the Committee. Frank Boccio, Esq., served as consultant.

Rules Review and Revision

As part of the comprehensive review of the revision of trial court rules undertaken by the Office of Court Administration with a view towards the ultimate promulgation of uniform statewide rules of procedure for all the trial courts in the State, the Committee, led by the efforts of Judge Aileen Haas Schwartz, Chairperson of the Subcommittee on Rules, reviewed and submitted comments of Part 205, (Uniform Rules for the Family Court), and Part 125 (Uniform Rules for the engagement of counsel). The Committee recommended numerous specific refinements of existing uniform Family Court rules, the addition of a rule to implement the Federal Indian Child Welfare Act, refinements to the engagement of counsel rule to reflect special statutory preferences applicable to Family Court proceedings, and consideration of a statewide rule concerning access to all trial court proceedings.

Subsequently, the Committee drafted and recommended the adoption of a new rule to implement section 161(b) of the Family Court Act, which pertains to the authorization of a judge other than a judge of the Family Court to perform the functions of a Family Court judge for the purposes of sections 728 and 1022 of the Family Court Act. The former section applies to the holding of a detention hearing prior to the filing of a petition in a PINS case; the latter applies to a hearing in a child protective proceeding required when a child has been removed from home prior the filing of a petition. That proposed rule has been approved for promulgation and will ultimately be added to Part 205 of the new uniform statewide rules.

Preparation of Official Family Court Forms

The Committee, led by Judge Gene L. Catena, Chairperson of the Subcommittee on Forms, began its review of revised and new forms made necessary by new legislation or revised court rules. It also continued its review of adoption forms, a process begun earlier but suspended, since a number of the adoption forms implemented court rules under review in the project involving statewide uniform court rules.

The review of adoption forms is almost completed and, after consultation with representatives from the Surrogate's Courts, shortly will be prescribed and distributed to all Family Court Judges and court clerks and to Surrogates and Surrogate's Court clerks.

The officially promulgated Family Court forms will appear in the appendix of volume 22(C) of the New York Code of Rules and Regulations (22 NYCRR).

Legislative Drafting and Review

The Committee, led by Judge Arthur J. Abrams, Chairperson of the Subcommittee on Legislation, reviewed all bills introduced in the Legislature during the legislative session affecting Family Court procedure, administrative or family law and reviewed draft proposals sent to the Office of Court Administration for comment by the Office of Governor's Counsel or legislative staff. Committee positions and comments were forwarded to the Chief Administrative Judge, who presented the views of the Committee and the Office of Court Administration to the Legislature in written memoranda.

In addition, the Committee, on its own initiative or at the request of the Chief Administrative Judge, drafted and forwarded to the Office of Court Administration bills for introduction to the Legislature. The text of each bill and supporting memorandum appear as an appendix to this report.

The following bills have been introduced into the Legislature:

S. 1151. This bill, which has been introduced in several past legislative sessions, would repeal section 236 of the Family Court Act and section 4406 of the Education Law, and amend section 232(b) of the Family Court Act and section 4401 of the Education Law, to remove from the Family court the residual jurisdiction over the special educational needs of handicapped children. This measure would pace full responsibility for the Educational needs of all handicapped children in the State Department of Education. There now is increasing legislative interest in this proposal, and it already has been introduced this session in the Senate.

A. 1732. This bill amends Section 350.3 of the Family Court Act, relating to dispositional hearings in juvenile delinquency proceedings, to authorize the court in its discretion to hold a consolidated dispositional hearing where more than one delinquency petition has been filed against a respondent. The measure includes a requirement for notice to the respondent and the appropriate presentment agency and an opportunity to be heard.

Fact-finding hearing on each different delinquency petition filed against a single respondent often are held before different judges, and present law requires that the judge who presides at the fact-finding hearing must also preside at the dispositional hearing on the petition, with certain exceptions (FCA §340.2). Since any dispositional hearing involving the same respondent invariably requires the presentation of the same evidence, the holding of separate dispositional hearings by different judges on each petition results in needless duplication of effort at great cost and inconvenience to the parties, the auxiliary services, the witnesses and the court. There may even be a possibility of different judges entering conflicting dispositional orders for a single respondent.

For these reasons, authorizing a single court, in its discretion, to dispose of multiple petitions in a consolidated dispositional hearing would avoid repetitive effort by counsel, supportive investigating and testing services and other witnesses. Moreover, it would assure the respondent and the community the prompt and consistent resolution of all pending petitions. Consolidated dispositional hearings in suitable delinquency cases in Family Court would markedly lessen the administrative and financial burden on the court and would conserve the use of personnel and other court resources. It would benefit similarly the other agencies and services involved in these proceedings. Consolidated dispositional hearings could be usefully employed throughout the state, either in instances where multiple findings against a respondent have been made in a single county, or where such findings have been made in different counties.

The following constitute the specific changes contained in this measure:

> Section 1 amends FCA §302.3(4), a venue provision which allows cases to be transferred from one county to another after fact-finding, to eliminate the existing exclusion of New York City from its terms. The amendment is necessary in order to enable the courts in New York City to hold consolidated dispositional hearings. Moreover, the flexibility to transfer cases is equally useful within New York City as elsewhere, and eliminating this exception would permit practice to be uniform throughout the state.
>
> Section 2 amends FCA §340.2(2) to except petitions for which consolidated dispositional hearings are held from the requirement that the judge who makes the fact-finding order must be the one to make the dispositional order on that petition.
>
> Section 3 amends FCA §340.2(3)(c), the provision that sets forth the circumstances under which an assignment of a proceeding may be made to a judge other than the one who presided at the fact-finding hearing, to eliminate the exclusion of New York City from its terms. Such flexibility is equally necessary within New York City and eliminating the exception would make the law uniform throughout the state.
>
> Section 4 amends FCA §350.3 expressly to authorize the court to hold a consolidated dispositional hearing.
>
> Section 5 amends FCA §352.2 to require that a separate order of disposition must be entered for every petition disposed of in a consolidated dispositional hearing.

The following bills are awaiting legislative introduction:

1. An omnibus bill amending various sections of articles 3 and 7 of the Family Court Act, which relate to proceedings involving alleged juvenile delinquents and persons in need of supervision. This bill is a shortened version of one introduced last year (S. 8341-A.10300). Since that bill failed to pass primarily because of

opposition to certain identifiable provisions, it was decided to eliminate those provisions for the present and introduce a new bill, confined to the non-controversial portions, in order to facilitate passage of the bill.

The code of procedure for juvenile delinquency proceedings in effect since July 1, 1983 (article 3 of the Family Court Act), already has evidenced a need for further amendment of articles 3 and 7 in order to improve the ability of the Family Court to handle proceedings under both articles. In addition, certain technical errors in the law have become apparent.

The following constitute the specific changes to articles 3 and 7 contained in this measure:

Article 3 (juvenile delinquency proceedings)

Sections 1 and 2 substitute the term "post-disposition" for the term "post-judgment" in FCA §301.3(1) (a) and (2) (b). This is the appropriate terminology consistent with other provisions of the Family Court Act.

Section 3 substitutes the words "chief administrator of the courts" for the "state court administrator", since the former is the legally correct title.

Section 4 amends FCA §320.2(4) to specify that, in addition to notifying the presentment agency, the clerk of court shall notify the law guardian, if one has been previously appointed [*see* §307.4], of the date of the initial appearance. This notice will help to reduce the likelihood of adjournments.

Section 5 amends FCA §320.5 (4) to add the word "fingerprint", characterizing more clearly the records that must be returned to the presentment agency.

Section 6 adds language to FCA §325.1 (2) indicating more clearly the time within which the probable cause hearing must be held.

Section 7 adds palmprints and photographs to FCA §354.1 (4). These were inadvertently omitted from this subdivision, but are mentioned in the other subdivisions of this section.

Section 8 clarifies the procedures and requirements in FCA §355.3 (1), (2) and (5) concerning extensions of placement:

(a) it requires that any supporting affidavits and reports must, like the petition, be filed 60 days before the expiration of the placements, except for good cause shown, thus insuring that the court will have before it all appropriate and relevant material prior to the commencement of any hearing;

(b) it makes explicit the requirement that the petitioner, not the court, is responsible for providing notice of these proceedings;

(c) it deletes language made unnecessary by the altered form of the section; and

(d) it conforms the language of FCA §355.3 (5) to that of FCA 1055 (b) (iv) [the extension of placement procedure in article 10 proceedings], thus clarifying the circumstances under which a temporary order extending placement can be granted.

Article 7 (PINS proceedings)

Section 9 repeals FCA §723, which concerns duties arising after a private person takes a child into custody. FCA §722, which authorized such a taking into custody, was repealed by Chapter 920 of the Laws of 1982, since it was inapplicable to PINS. Under the circumstances, §723 is superfluous.

Section 10 makes changes in FCA §724 (a) necessitated by the repeal of §723. It also substitutes the word "acts" in FCA 724 (b) (ii) in the phrase "act occasioning the taking into custody" to reflect the requirement of §723 that a single act is insufficient to sustain a PINS petition. In addition, the word "child" is substituted for "his" to reflect the requirement for gender neutrality.

Section 11 eliminates from FCA (a) (ii) the authority of the probation service to make recommendations to the corporation counsel or the county attorney concerning the adjustment of a case; such recommendations are applicable only to delinquency proceedings and therefore have no place in article 7 PINS proceedings.

Section 12 eliminates from FCA §756 (b) all references to extensions of placement of PINS.
Section 13 repeals subdivision (c) of FCA §756 concerning successive extensions of placement. In their place, an entirely new section on extensions of placement is substituted. *See* §14 hereafter.

Section 14 adds a new section, FCA §756-a, concerning requirements and procedures for extensions of placement in PINS proceedings. The new section conforms to the present provisions concerning extensions of placement in articles 3 [juvenile delinquency proceedings: §355.3] and 10 [child protective proceedings: §1055]. *See also* proposed amendments to §355.3 as explained in §8 herein.

Section 15 makes the effective date of the bill 60 days after it becomes law to allow adequate time for notice of the changes to be received by the courts, the agencies involved and the Bar.

2. A bill amending section 513 of the Family Court Act, which was introduced in the last legislative session (S. 8126-A. 9464) but which was not passed. This bill specifies relevant factors which the court should consider in making an award of child support in a paternity proceeding after an order of filiation has been made. The measure conforms the language and guidelines of section 513 to that of section 413 of the Family Court Act and section 32(3) of the Domestic Relations Law. These were amended by chapter 362 of the laws of 1983 to incorporate the factors required by §236 (B) (7) of the Domestic Relations Law to be considered by a judge in making an award of child support in matrimonial proceedings. Since the factors considered in making child support awards in paternity proceedings are the same as those considered in making child support awards in any other proceeding in which support may be awarded, the statutes should be made consistent.

Proposed Code of Evidence

At the request of the Chief Administrative Judge, the Committee reviewed the impact of the proposed Code of Evidence upon Family Court and family law practice and forwarded its report to the Chief Administrative Judge.

Current Activities

Acting upon a suggestion of Judge Schwartz, and after discussion by the Committee as a whole, Judge Turret appointed a subcommittee to study the desirability of enacting substantive standards for use in child custody proceedings. This may culminate in suggestions for legislation which the Committee would draft and recommend.

In addition, the Committee has under review a draft of a general informational pamphlet relating to the nature of the Family Court structure and the proceedings over which it has jurisdiction. It's purpose is to transmit some basic information to a person who is or contemplates being a litigant in this court who is not as yet represented by counsel. Upon final approval, it will be transmitted to the Chief Administrator of the Courts with a recommendation that it be printed and distributed to all Family Courts and made available to persons who seek to avail themselves of the court's services. The proposed pamphlet will be accompanied by a memorandum from the Committee suggesting how the pamphlet, in the Committee's view, can be used most productively.

Dated: February, 1985

Respectively submitted,

THE FAMILY COURT
ADVISORY AND
RULES COMMITTEE

Hon. Jack Turret, *Chairperson*
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Hon. Gene L. Catena
Hon. Patricia Collins
Hon. Nanette Dembitz
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William G. O'Brien Esq.
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Appendix A

AN ACT

To Amend the family court act, in relation to dispositional hearings in delinquency proceedings.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision four of section 302.3 of the family court act, as added by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

4. [In cases heard outside of the city of New York, and except] *Except* for designated felony act petitions, after entering a finding pursuant to subdivision one of section 345.1, and prior to the commencement of the dispositional hearing the court may, in its discretion and for good cause shown, order that the proceeding be transferred to the county in which the respondent resides. The court shall not order such a transfer, however, unless it grants the respondent and the presentment agency an opportunity to state on the record whether each approves or disapproves of such a transfer and the reasons therefor. The court shall take into consideration the provisions of subdivisions two and three of section 340.2 in determining such transfer.

§2. Subdivision two of section 340.2 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

2. The judge who presides at the fact-finding hearing or accepts an admission pursuant to section 231.3 shall preside at any other subsequent hearing in the proceeding, including but not limited to the dispositional hearing, *unless the dispositional hearing has been consolidated pursuant to section 350.3 of this chapter.*

§3. Paragraph (c) of subdivision three of section 340.2 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

(c) [in cases heard outside the city of New York,] if it is not practicable for the judge to preside.

§4. Section 350.3 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

§350.3 Dispositional hearings, evidence and required quantum of proof [-]*;* appearance of presentment agency*; consolidated dispositional hearings.*

1. Only evidence that is material and relevant may be admitted during a dispositional hearing.

2. An adjudication at the conclusion of a dispositional hearing must be based on a preponderance of the evidence.

3. The presentment agency shall appear at the dispositional hearing.

4. In the discretion of the court, and upon notice by the court to the respondent and the affected presentment agency or agencies, and upon an opportunity to be heard, a consolidated dispositional hearing may be held where more than one delinquency petition has been filed against the respondent pursuant to section 310.1(1) of this act and for which more than one fact-finding order has been entered pursuant to section 345.1(1) of this act.

§5. Section 352.2 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended by adding a new subdivision four to read as follows:

4. Where a consolidated dispositional hearing has been held pursuant to subdivision four of section 350.3, a separate order of disposition shall be entered for each petition.

§6. This act shall take effect immediately.

IN SUPPORT OF

S.

A.

AN ACT

To Amend the family court act, in relation to dispositional hearings in delinquency proceedings.

This measure is being introduced at the request of the Office of Court Administration. It has the support of the Family Court Advisory and Rules Committee.

It would amend article 3 of the Family Court Act to authorize the court in delinquency proceedings to hold a consolidated dispositional hearing where more than one delinquency petition has been filed against a respondent.

The Family Court Act requires that a dispositional hearing take place prior to the court's making a final dispositional order. The purpose of the dispositional order is to mandate appropriate services for a respondent who has been found to have committed delinquent acts, taking into account the safety of the community. It is not intended as punishment. FCA§§301.1; 301.2(7), 352.2(2). The evidence presented at the dispositional hearing typically consists of diagnostic assessments and probation investigations, as well as testimony of witnesses called by the court or the parties to "offer evidence concerning the advisability of specific dispositional alternatives." FCA §350.4.

If, as frequently occurs, more than one petition has been filed against a respondent, fact-finding hearings may have been held before different judges. Present law requires that the judge who presides at a fact-finding hearing must also preside at the dispositional hearing on that petition, with certain exceptions. FCA §340.2. Since any dispositional hearing involving the same respondent invariably requires the presentation of the same evidence, the holding of separate dispositional hearings by different judges on each petition is likely to result in needless duplication of effort at great cost and inconvenience to the parties, the auxiliary services, the witnesses and the court. There is even the possibility of different judges entering conflicting dispositional orders for a single respondent.

Authorizing a court in its discretion to dispose of multiple petitions in a consolidated dispositional hearing would avoid repetitive effort by counsel, supportive investigatory and testing services and other witnesses. Moreover, it would assure the respondent and the community the prompt and consistent resolution of all pending petitions. Consolidated dispositional hearing could be usefully employed throughout the state, either in instances where multiple findings against the respondent have been made in a single county or where such findings have been made in different counties. The measure includes a requirement for notice to the respondent, appropriate presentment agency and an opportunity to be heard.

The following constitute the specific changes contained in this measure:

Section 1 amends FCA §302.3(4), a venue which allows cases to be transferred from one county to another provision after fact-finding, to eliminate the existing exclusion of New York City from its terms. The amendment is necessary in order to enable the courts in New York City to hold consolidated dispositional hearings. Moreover, the flexibility to transfer cases is equally useful within New York City as elsewhere and eliminating this exception would permit practice to be uniform throughout the state.

Section 2 amends FCA §340.2(2) to except petitions for which consolidated dispositional hearings are held from the requirement that the judge who makes the fact-finding order must be the one to make the dispositional order on that petition.

Section 3 amends FCA §340.2 (3) (c), the provision which sets forth the circumstances under which an assignment of a proceeding may be made to a judge other than the one who presided at the fact-finding hearing, to eliminate the exclusion of New York City from its terms. Such flexibility is equally necessary within New York City and eliminating the exception would make the law uniform throughout the state.

Section 4 amends §350.3 expressly to authorize the court to hold a consolidated dispositional hearing.

Section 5 amends FCA §352.2 to require that a separate order of disposition must be entered for every petition disposed of in a consolidated dispositional hearing.

Consolidated dispositional hearings in suitable delinquency cases in Family Court would markedly lessen the administrative and financial burden on the court and would conserve the use of personnel and other court resources. It also would benefit similarly the other agencies and services involved in these proceedings.

This measure would take effect immediately.

Appendix B

AN ACT

To Amend the family court act and the education law, in relation to providing for the education of handicapped children and to repeal section two hundred thirty-six of the family court act and section forty-four hundred six of the education law relating thereto.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (b) of section two hundred thirty-two of the family court act, as added by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, is amended to read as follows:

(b) "Physically handicapped child" means a person under twenty-one years of age who [, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury to disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation, as provided in the education law,] *is handicapped by reason of a defect or disability, whether congenital or acquired by accident, injury or disease,* or is physically handicapped, as provided in section two thousand five hundred eighty-one of the public health law.

§2. Section two hundred thirty-six of such law is REPEALED.

§3. Subdivision one and paragraph a of subdivision two of section forty-four hundred one of the education law, as amended by chapter fifty-three of the laws of nineteen hundred eighty, are amended to read as follows:

1 A "child with a handicapping condition" means:

a. a person under the age of twenty-one who is entitled to attend public schools pursuant to section thirty-two hundred two of this chapter, *or*

b. a person as defined by paragraph a of this subdivision who is not eligible for educational services pursuant to articles seventy-three, eighty-five, eighty-seven, or eighty-eight of this chapter, including those persons under the age of five not entitled to attend school without the payment of tuition pursuant to section thirty-two hundred two of this chapter, and who, because of mental, physical, or emotional reasons can receive appropriate educational opportunities from special services and programs to include, but not be limited to, transportation, and the special services and programs delineated in subdivision two of this section.

a. Special classes, *summer session programs,* transitional support services, resource rooms, home instruction, and special teachers to include itinerant teachers as provided by the schools of the district of residence with such terms and services to be defined by regulations of the commissioner.

§4. Section forty-four hundred six of such law is REPEALED.

§5. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

REPEAL NOTE—Section two hundred thirty-six of the family court act, proposed to be repealed by this act, gives the family court jurisdiction over the educational needs of certain handicapped children. Section forty-four hundred six of the education law, proposed to be repealed by this act, prescribes the procedures to be followed in children with handicapping conditions proceedings in the family court. These sections would be rendered obsolete by the enactment of this measure which would place the educational needs of all handicapped children with the state education department.

IN SUPPORT OF

S.

A.

AN ACT

To Amend the family court act and the education law, in relation to providing for the education of handicapped children and to repeal section two hundred thirty-six of the family court act and section forty-four hundred six of the education law relating thereto.

This measure is being introduced at the request of the Office of Court Administration and the Family Court Advisory and Rules Committee.

Chapter 853 of the Laws of 1976 limited the authority of the Family Court to make determinations concerning the educational needs of handicapped children to those situations where a child is not otherwise entitled to attend school: that is, when school is not in session, or the child is below the age of five. This measure repeals section 236 of the Family Court Act, thereby removing from Family Court this residual jurisdiction over the special educational needs of handicapped children. It also amends section 4401 of the Education Law to modify the definition of a handicapped child—to transfer this jurisdiction to the school district of the child's residence.

This measure would also amend subdivision (b) of section 232 of the Family Court Act to conform its definition of a physically handicapped child to the definition within the Public Health Law. Under this section, as proposed to be amended, the Family Court would retain the power to order services for a child in need of medical, surgical, therapeutic, or hospital care. The Family Court's jurisdiction over proceedings relating to parental contribution for medical services for physically handicapped children, supplied pursuant to section 2581 or 2582 of the Public Health Law, remains unchanged.

This Office and the Family Court Advisory and Rules Committee believe that full responsibility for determining and providing for the educational needs of all handicapped children, whether or not of school age, and whether or not for the period during which school is not in session, appropriately rests with local school districts.

This measure will also simplify the process by which parents can obtain needed educational services for handicapped children. Individual school districts now possess authority to make determinations in respect to the educational needs of all other handicapped children; they therefore have established administrative procedures to deal with these cases.

This measure would have minimal fiscal impact upon the State.

This measure would be effective on the first day of September next succeeding the date on which it shall have become a law.

Appendix C

AN ACT

To Amend the family court act, in relation to making certain technical changes with respect to the recodification of provisions concerning juvenile delinquency and persons in need of supervision affected by chapters nine hundred twenty and nine hundred twenty-six of the laws of nineteen hundred eighty-two and chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three and repealing certain provisions of such act relating thereto.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision one of section 301.3 of the family court act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

(a) all juvenile delinquency actions and proceedings commenced upon or after the effective date thereof and all appeals and other [post-judgment] *post-disposition* proceedings relating or attaching thereto; and

§2. Paragraph (b) of subdivision two of section 301.3 of such act, as amended by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

(b) all appeals and other [post-judgment] *post-disposition* proceedings commenced upon or after such effective date which relate or attach to juvenile delinquency actions and proceedings commenced or concluded prior to such effective date provided that, if application of such provisions in any particular case would not be feasible or would work injustice, the provisions of article seven pertaining to juvenile delinquency actions apply thereto, as such article seven read immediately prior to the effective date of this article.

§3. Paragraphs (b) of subdivision four and (d) of subdivision seven of section 305.2 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

(b) forthwith and with all reasonable speed take the child directly, and without his first being taken to the police station house, to the family court located in the county in which the act occasioning the taking custody allegedly was committed, unless the officer determines that it is necessary to question the child, in which case he may take the child to a facility designated by the [state court administrator] *chief administrator of the courts* as a suitable place for the questioning of children and there question him for a reasonable period of time; or

§4. Subdivision four of section 320.2 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

4. The clerk of court shall notify the presentment agency *and the law guardian, if one has been previously appointed,* of the initial appearance date.

§5. Subdivision four of section 320.5 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

4. At the initial appearance the presentment agency may introduce the respondent's previous delinquency findings entered by a family court. If the respondent has been fingerprinted for the current charge pursuant to section 306.1, the presentment agency may also introduce the fingerprint records maintained by the division of criminal justice services. The clerk of court and the probation service shall cooperate with the presentment agency in making available the appropriate records. At the conclusion of the initial appearance such *fingerprint* records shall be returned to the presentment agency and shall not be made a part of the court record.

§6. Subdivision two of section 325.1 of such act, as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

2. Such probable-cause hearing shall be held within three days following the initial appearance or within four days following the filing of a petition, whichever occurs sooner[.] , *except that where a child has been detained prior to the filing of a petition and a hearing has been held pursuant to section 307.4, the time for holding the probable-cause hearing shall be in accordance with subdivision 7 of section 307.4.*

§7. Subdivision four of section 354.1 of such act, as amended by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, is amended to read as follows:

4. If, following the taking into custody of a person alleged to be a juvenile delinquent and the taking and forwarding to the division of criminal justice services of such person's fingerprints, *palmprints or photograph,* but prior to referral to the probation department or to the family court, an officer or agency [,] elects not to proceed further, such officer or agency shall serve a certification of such election upon the division of criminal justice services.

§8. Subdivisions one, two and five of section 355.3

of such act, subdivision one as amended by chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three, and subdivisions two and five as added by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

1. In any case in which the respondent has been placed pursuant to section 353.3 the respondent, the person with whom the respondent has been placed, the commissioner of social services, or the division for youth may petition the court to extend such placement. Such petition *and any supporting affidavits or reports* shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown, but in no event shall such petition *and any supporting affidavits or reports* be filed after the original expiration date. *Nothing in this subdivision shall be construed to preclude the filing and exchange of supplemental affidavits or reports.*

2. The court shall conduct a hearing concerning the need for continuing the placement. The respondent, the presentment agency and the agency with whom the respondent has been placed shall be notified *by the petitioner* of such hearing and shall have the opportunity to be heard thereat. [If the petition is filed within sixty days prior to the expiration of the period of placement, the court shall first determine at such hearing whether good cause has been shown. If good cause is not shown, the court shall dismiss the petition.]

3. The provisions of sections 350.3 and 350.4 shall apply at such hearing.

4. At the conclusion of the hearing the court may, in its discretion, order an extension of the placement for not more than one year.

5. [Subdivisions two and three notwithstanding, the court] *Pending final determination of a petition to extend such placement filed in accordance with the provisions of this section, the court, for good cause shown,* may enter a temporary order extending a period of placement for a period not to exceed thirty days upon satisfactory written proof showing probable cause for continuing such placement and that a temporary order is necessary. Such temporary order shall not be renewable.

6. Successive extensions of placement under this section may be granted, but no placement may be made or continued beyond the respondent's eighteenth birthday without [his] *the child's* consent and in no event past [his] *the child's* twenty-first birthday.

§9. Section seven twenty-three of such act is REPEALED.

§10. The title, subdivision (a) and paragraph (ii) of subdivision (b) of section seven hundred twenty-four of such act, subdivision (a) as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, are amended to read as follows:

§724. Duties of police officer or peace officer after taking *a child* into custody [or on delivery by a private person].

(a) If a peace officer or a police officer takes *a child* into custody [or if a person is delivered to him under section seven hundred twenty-three], the officer shall immediately notify the parent or other person legally responsible for [his] *the child's* care, or the person with whom [he] *the child* is domiciled, that [he] *the child* has been taken into custody.

(b) After making every reasonable effort to give notice under paragraph (a), the officer shall

(i) release the child to the custody of [his] *the child's* parent or other person legally responsible for [his] *the child's* care upon the written promise, without security, of *the person* to whose custody the child is released that [he] *the person* will produce the child before the Family Court in that county at a time and place specified in writing; or

(ii) forthwith and with all reasonable speed take the child directly, and without [his] *the child's* first being taken to the police station house, to the family court located in the county in which the [act] *acts* occasioning the taking into custody allegedly were done, unless the officer determines that it is necessary to question the child, in which case he or she may take the child to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children and there question [him] *the child* for a reasonable period of time; or

§11. Paragraph (ii) of subdivision (a) of section seven hundred thirty-four of such act, as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

(ii) attempt to adjust suitable cases before a petition is filed over which the court apparently would have jurisdiction. [The probation service may make a recommendation regarding adjustment of the case to the corporation counsel or county attorney and provide such information, including any record of previous adjustments and arrests, as it shall deem relevant, provided, however, the probation service shall not transmit or otherwise communicate to the corporation counsel or county attorney any statement made by the potential respondent to a probation officer.]

§12. subdivision (b) of section seven hundred fifty-six of such act, as amended by chapter nine hundred twenty of the laws of nineteen hundred eighty-two, is amended to read as follows:

(b) Placements under this section may be for an initial period of eighteen months [and the court in its discretion may, at the expiration of such period, make successive extensions for additional periods of one year each. The place in which or the person with which the child has been placed under this section shall submit a report at the end of the year of placement, making recommendations and giving such supporting data as is appropriate. The court on its own motion may at the conclusion of any period of placement hold a hearing concerning the need for continuing the placement]. In its discretion, the court may recommend restitution or require services for public good pursuant to section seven hundred fifty-eight-a in conjunction with an order of placement.

§13. Subdivision (c) of section seven hundred fifty-six of such act is REPEALED.

§14. Such act is amended by adding a new section seven hundred fifty-six-a to read as follows:

§756-a. Extension of Placement. (a) In any case in which the respondent has been placed pursuant to section seven hundred fifty-six, the respondent, the person with whom the respondent has been placed, the commissioner of social services, or the division for youth may petition the court to extend such placement. Such petition and any supporting affidavits or reports shall be filed at least sixty days prior to the expiration of the period of placement, except for good cause shown, but in no event shall such petition and any supporting affidavits or reports be filed after the original expiration date. Nothing in this subdivision shall be construed to preclude the filing and exchange of supplemental affidavits or reports.

(b) The court shall conduct a hearing concerning the need for continuing the placement. The respondent, the presentment agency and the agency with whom the respondent has been placed shall be notified by the petitioner of such hearing and shall have the opportunity to be heard thereat.

(c) The provisions of section seven hundred forty-five shall apply at such hearing.

(d) At the conclusion of the hearing the court may, in its discretion, order an extension of the placement for not more then one year.

(e) Pending final determination of a petition to extend such placement filed in accordance with the provisions of this section, the court, for good cause shown, may enter a temporary order extending a period of placement for a period not to exceed thirty days upon satisfactory written proof showing probable cause for continuing such placement and that a temporary order is necessary. Such temporary order shall not be renewable.

(f) Successive extensions of placement under this section may be granted, but no placement may be made or continued beyond the respondent's eighteenth birthday without his or her consent and in no event past his or her twenty-first birthday.

§15. This act shall take effect on the sixtieth day after it shall have become a law.

IN SUPPORT OF

S.

A.

AN ACT

To Amend the family court act, in relation to making certain technical changes with respect to the recodification of provisions concerning juvenile delinquency and persons in need of supervision affected by chapters nine hundred twenty and nine hundred twenty-six of the laws of nineteen hundred eighty-two and chapter three hundred ninety-eight of the laws of nineteen hundred eighty-three and repealing certain provisions of such act relating thereto.

This is one of a series of measures being introduced at the request of the Chief Administrator of the Courts upon the recommendation of the Family Court Advisory and Rules Committee.

It amends various sections of articles 3 and 7 of the Family Court Act, which relate to proceedings involving alleged juvenile delinquents and persons in need of supervision [hereinafter "PINS"] to correct technical errors in the law which have become apparent.

The following constitutes the specific changes to articles 3 and 7 contained in this measure:

Article 3 (juvenile delinquency proceedings)

> Sections 1 and 2 substitute the term "post-disposition" for the term "post-judgment" in FCA §301.3 (1) (a) and (2) (b). This is the appropriate terminology consistent with other provisions of the Family Court Act.
>
> Section 3 substitutes the words "chief administrator

of the courts" for "state court administrator" since the former is the legally correct title.

Section 4 amends FCA §320.2 (4) to specify that, in addition to notifying the presentment agency, the clerk of court shall notify the law guardian, if one has been previously appointed [*see* §307.4], of the date of the initial appearance. This notice will help to reduce the likelihood of adjournments.

Section 5 amends FCA §320.5 (4) to add the word "fingerprint", that characterizing more clearly the records that must be returned to the presentment agency.

Section 6 adds language to FCA §325.1 (2) indicating more clearly the time within which the probable cause hearing must be held.

Section 7 adds palmprints and photographs to FCA §354.1 (4). These were inadvertently omitted from this subdivision but are consistently mentioned in the other subdivisions of this section.

Section 8 clarifies the procedures and requirements in FCA §§355.3(1),(2) and(5) concerning extensions of placement:

(a) it requires that any supporting affidavits and reports must, like the petition, be filed 60 days before the expiration of the placement, except for good cause shown, thus insuring that the court will have before it all appropriate and relevant material prior to the commencement of any hearing;

(b) it makes explicit the requirement that the petitioner, not the court, is responsible for providing notice of these proceedings;

(c) it deletes language made unnecessary by the altered form of the section; and

(d) it conforms the language of FCA §355.3 (5) to that of FCA §1055 (b) (iv) [the extension of placement procedure in article 10 proceedings], thus clarifying the circumstances under which a temporary order extending placement can be granted.

Article 7 (PINS proceeding)

Section 9 repeals FCA §723, which concerns duties arising after a private person takes a child into custody. FCA §722, which authorized such a taking into custody, was repealed by Chapter 920 of the Laws of 1982, since it was inapplicable to PINS. Under the circumstances, §723 is superfluous.

Section 10 makes changes in FCA §724 (a) necessitated by the repeal of §723. It also substitutes the word "acts" in FCA §724 (b) (ii), in the phrase "act occasioning the taking into custody, " to reflect the requirement of §732 that a single act is insufficient to sustain a PINS petition. In addition, the word "child" is substituted for "his" to reflect the requirement for gender neutrality.

Section 11 eliminates from FCA §734 (a) (ii) the authority of the probation service to make recommendations to the corporation counsel or the county attorney concerning the adjustment of a case; such recommendations are applicable only to delinquency proceedings and therefore have no place in article 7 PINS proceedings.

Section 12 eliminates from FCA §756 (b) all references to extensions of placement of PINS; section (13) repeals subdivision (c) of FCA §756 concerning successive extensions of placement. In their place, an entirely new section on extensions of placement is substituted. *See* summary of §14 hereafter.

Section 14 adds a new section, FCA §756-a, concerning requirements and procedures for extensions of placement in PINS proceedings. The new section conforms to the present provisions concerning extensions of placement in articles 3 [juvenile delinquency proceedings: §355.3] and 10 [child protective proceedings: §1055]. *See also* proposed amendments to §355.3 as explained in the summary of § 8 herein.

Section 15 makes the effective date of the bill 60 days after it becomes law to allow adequate time for notice of the changes to be received by the courts, the agencies involved and the Bar.

This measure would have no fiscal impact upon the state.

Appendix D

AN ACT

To Amend the family court act, in relation to child support.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Section 1. Section five hundred thirteen of the family court act, is amended to read as follows:

§513. Obligation of parents. *Subject to the provisions of paragraph f of subdivision six of section three hundred ninety-eight of the social services law,* [Each] *each* parent of a child born out of wedlock is liable for the necessary support and education of the child, and for the child's funeral expenses[.] *and, if possessed of sufficient means or able to earn such means, may be required to pay for child's care, maintenance and education. A court shall make an award for child support pursuant to section 545 after consideration of all relevant factors, including:*

(i) the financial resources of the parents and those of the child;

(ii) the physical and emotional health of the child, and his or her educational or vocational needs and aptitudes;

(iii) where practical and relevant, the standard of living previously established by the parents for the child;

(iv) where practical and relevant, the tax consequences to the parties; and

(v) the non-monetary contributions that the parents will make toward the care and well-being of the child. If a parent dies, an order of support or a judicially approved settlement made prior to that parent's death shall be enforceable as a claim against the deceased parent's estate in an amount to be determined by the surrogate's court not greater than is provided in said order of settlement, having regard to the age of the child, the ability of the surviving parent to support and educate it, the amount of property left by the deceased parent and the number, age and financial condition of those other persons legally entitled to support by the deceased parent during his or her lifetime.

§2. This act shall take effect sixty days after the date on which it shall have become a law.

IN SUPPORT OF

S.

A.

AN ACT

To Amend the family court act, in relation to child support.

This measure is being introduced at the request of the Office of Court Administration. This has the support of the Family Court Advisory and Rules Committee.

It would amend section 513 of the Family Court Act to specify relevant factors which the court should consider in making an award of child support in a paternity proceeding after an order of filiation has been made. This would conform the language and guidelines of section 513 to that of sections 413 of the Family Court Act and 32(3) of the Domestic Relations Law, which were amended by chapter 362 of the laws of 1983 to incorporate the factors required by DRL §236-B (7) to be considered in making an award of child support in support proceedings.

Since the factors considered in making child support awards in paternity proceedings are the same as those considered in making child support awards in other proceedings in which support may be awarded, the statutes should be made consistent.

The measure also makes clear that the obligation to support is subject to the provisions of section 398(6) (f) of the Social Services Law, which provides that a surrender by the mother of an out-of-wedlock child to the Department of Social Services relieves the mother from liability for support of that child.

This amendment would have no fiscal impact on the State. It would take effect sixty days after it is signed into law.

APPENDICES

Appendix 1

Other Programs

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Retainer and Closing Statements.

Under 22 NYCRR Parts 603, 551 and 1022, every attorney in the First, Second and Fourth Judicial Departments* must file a Statement of Retainer with the Office of Court Administration in cases involving personal injury, property damage, wrongful death, or change of grade. This statement must be filed within 30 days of the date the lawyer is retained (15 days in case of "of counsel" lawyers). It sets forth the date of the agreement, the terms of compensation, the agreement as to work and fee division between the original lawyer and the "of counsel" lawyer, and data about the person referring the client to the lawyer.

In addition, every such lawyer must file a closing statement with the Office of Court Administration within 15 days of the date the monies became available to him. This statement sets forth such information as the monetary amount of the settlement or award (if any). If an action was commenced, it contains the date, court and county of commencement and the method of the recovery, the person paying the recovery, the distribution of the recovery to the client and the lawyer's fees and other disbursements.

The purpose of these statements is to provide information for use by the three Appellate Divisions to prevent the charging of unconscionable fees in contingent fee cases and to discourage the unlawful solicitation of cases.

Table A-1 shows that 106,031 retainer statements were filed with the Office of Court Administration in 1984. This is an increase of about 2% from the previous year.

Table A-2 gives the court in which actions were terminated and the monetary breakdown by settlement or judgment. For cases commenced in the Supreme Court, the largest single group of cases terminated involved recoveries between $10,000 and $15,000. The largest single group of cases terminated in the lower courts involved recoveries between $1,000 and $4,000. The great majority of claims settled resulted in at least some monetary recovery. Although there were some very large recoveries, they were proportionately few; there were 3,144 recoveries in the $50,000 to $100,000 category and 2,244 recoveries over $100,000.

Statements of Approval of Compensation

Section 35-a of the Judiciary Law, as originally enacted by the Legislature in 1967, required the filing of a Statement of Appointment by each person appointed by the courts to perform services in actions and proceedings for a fee or an allowance. The statute called for these statements to be filed with the Judicial Conference within 30 days of an appointment. The required information included the name and address of the appointee, the nature of the appointment, the title of litigation, and the name of the court and the judge or justice making the appointment.

In addition, within 30 days of receiving a fee, the appointee was required to execute a Statement of Services Rendered with other pertinent data related to the fee received. Under the statute, all statements filed were to be kept as matters of public record. The law also required that an annual summary of the information in the statement be furnished to the four Appellate Divisions of the Supreme Court for use in supervising court appointments in their Judicial Departments.

An extensive study of this system of two reports for each appointment revealed a number of inefficiencies. Not the least of these was the failure of many appointees to file a Statement of Services Rendered after payment of the fee.

To deal with this problem, the Office of Court Administration sponsored legislation amending section 35-a which was enacted as Chapter 834, Laws of 1975, and which went into effect starting with appointments made after September 1, 1975.

Under the amended law, judges who approve fees are responsible for filing a single comprehensive statement, entitled Statement of Approval of Compensation on appointments for which the fee is more than $200. The judges are required to send the statements to the Office of Court Administration each week for data processing and filing. Fees of $200 or less are not required to be reported because they are believed to have little significance in the statistical study of appointments made in the court system.

In 1984 a total of 4,644 Statements of Approval of Compensation were filed with the Office of Court Administration. The new system accomplished its intended purpose of obtaining timely reports on court appointments without loss of required data provided by the older system.

Attorney Registration

Pursuant to Section 468-a of the Judiciary Law and the Rules of the Chief Administrator (22 NYCRR Part 118) a new registration system was instituted. Under this system every attorney admitted to practice on or before January 1, 1982, whether resident or non-resident, and whether or not in good standing, was required to file a registration statement with the Chief Administrator of the Courts no later than March 1, 1982. Every registration must include a fifty dollar fee unless the attorney certifies that he or she does not intend to engage in the practice of law during the biennial registration period.

In addition, every attorney newly admitted to practice in New York State after January 1, 1982, whether resident or non-resident, and whether or not in good standing, is required to file a registration statement within 60 days of the date of such admission.

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* At present, there is no filing rule for the Third Judicial Department.

Every attorney is then required to reregister during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York Bar. The law also requires that an attorney notify the Office of Court Administration within 30 days of any change in business or residence address as well as registration status.

As of the end of calendar year 1984, approximately 91,000 attorneys were registered with the Office of Court Administration and three million dollars in registration fees collected. Half of these proceeeds go to the Client Security Fund as prescribed by the Judiciary Law.

Table A-3 shows the breakdown of attorneys by county and department of business. Table A-4 gives the breakdown of attorneys by year of birth as furnished in the registration statement.

Adoption Affidavits

According to the Rules of the respective Appellate Divisions 22 NYCRR Parts 603.22 (1st Dept.), 691.23 (2nd Dept.), 806.13 (3rd Dept.) and 1022.32 (4th Dept.) all attorneys must file an affidavit as a condition to proceed with an adoption. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

Once the attorney has been contacted to represent a client in an adoption proceeding, the attorney prepares a petition requesting an adoption. When the petition is filed, a docket number is issued by the court. The attorney's affidavit is completed in duplicate by the attorney who files one copy with the Office of Court Administration. During 1984, 6,464 adoption affidavits were filed with the Office of Court Administration.

Table A-1
RETAINER STATEMENT FILINGS BY MONTH
January 1, 1984 through December 31, 1984

Month	Number of Statements of Retainer Filed
January	8,687
February	9,127
March	7,536
April	9,425
May	9,038
June	8,342
July	9,446
August	8,732
September	8,245
October	10,585
November	9,076
December	7,792
Total	106,031

Table A-2
COURT AND MONETARY BREAKDOWN OF CLOSING STATEMENTS
January 1, 1984 through December 31, 1984

Amount of Recovery	Supreme Court		U.S. District Court		Court of Claims*		County Court		Civil Court		City Courts		District Court		Justice Court		All Courts		No Action**
	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled
1-499	144	10	17	......	1	......	2	......	56	......	3	......	7	......	1	......	231	10	152
500-999	264	......	6	......	......	......	8	......	149	4	9	......	7	2	3	......	446	6	430
1,000-1,999	1,124	7	24	......	3	......	6	......	414	7	23	2	26	2	2	......	1,624	18	1,171
2,000-2,999	1,738	14	23	......	3	1	7	......	355	8	11	......	19	1	......	......	2,156	24	1,407
3,000-3,999	2,369	9	34	1	6	1	7	......	287	7	5	......	15	1	......	......	2,723	19	1,575
4,000-4,999	2,220	9	24	......	4	1	4	1	178	3	7	......	7	1	......	......	2,444	15	1,298
5,000-5,999	2,513	17	29	......	6	......	5	......	147	1	3	......	1	......	......	......	2,704	18	1,311
6,000-6,999	2,209	6	28	2	7	1	2	1	86	......	1	......	5	......	......	......	2,338	10	921
7,000-7,999	2,994	16	27	1	5	......	4	......	84	2	1	......	1	......	......	......	3,116	19	1,135
8,000-8,999	1,608	14	14	......	1	1	2		......	44	2	......	......	......	......	......	1,669	17	680
9,000-9,999	2,046	14	26	......	2	......	3	......	42	......	......	......	......	......	......	......	2,119	14	890
10,000-14,999	6,159	45	82	1	12	4	1	......	68	2	......	......	......	......	......	......	6,322	52	2,265
15,000-19,999	3,228	76	72	2	10	......	......	......	14	1	......	......	......	......	......	......	3,324	29	709
20,000-24,999	2,057	27	68	3	2	1	......	......	10	......	......	......	......	......	......	......	2,137	31	368
25,000-29,999	1,556	17	44	1	7	......	......	......	4	......	......	......	......	......	......	......	1,611	18	249
30,000-34,999	984	12	32	......	3	......	......	......	......	......	......	......	......	......	......	......	1,019	12	107
35,000-49,999	2,027	41	89	......	7	1	......	......	6	......	......	......	......	......	......	......	2,129	42	227
50,000-99,999	2,913	70	137	10	7	4	......	......	3	......	......	......	......	......	......	......	3,060	84	263
100,000-up	1,945	79	193	8	8	8	......	......	2	1	......	......	......	......	......	......	2,148	96	126
Total With Recovery	40,098	433	971	29	94	23	51	2	1,949	38	63	2	88	7	6	0	43,320	534	15,284
No Recovery	983		42		25		4		156		4		7				1,221		4,325

NOTE: Whenever individual closing statements were filed by attorneys acting jointly in a case, each statement received was included in these tabulations. Thus, the number of statements somewhat exceeds the total number of cases closed.

*Includes condemnation as well as tort matters.

**Item 3 of the closing statement requires that the court and date be indicated if an action was commenced. This catagory includes those statements in which this item is left blank.

Table A-3
ATTORNEY REGISTRATION BY LOCATION

Location	*Total*
Albany	2,164
Allegany	43
Bronx	1,214
Broome	450
Cattaragus	88
Cayuga	77
Chautauqua	169
Chemung	144
Chenango	56
Clinton	78
Columbia	81
Cortland	46
Delaware	60
Dutchess	450
Erie	2,474
Essex	78
Franklin	60
Fulton	62
Genesee	67
Greene	47
Hamilton	3
Herkimer	70
Jefferson	102
Kings	3,643
Lewis	16
Livingston	54
Madison	78
Monroe	1,972
Montgomery	58
Nassau	5,999
New York	40,596
Niagara	276
Oneida	398
Onondaga	1,376
Ontario	92
Orange	459
Orleans	27
Oswego	77
Otsego	75
Putnam	121
Queens	2,677
Rensselaer	232
Richmond	493
Rockland	628
St. Lawrence	80
Saratoga	193
Schenectady	315
Schoharie	32
Schuyler	17
Seneca	38
Steuben	111
Suffolk	2,378
Sullivan	148
Tioga	37
Tompkins	171
Ulster	223
Warren	136
Washington	52
Wayne	80
Westchester	3,598
Wyoming	28
Yates	19
Outside New York State	13,661
Missing County	2,580
Total	91,327
First Department	41,810
Second Department	20,446
Third Department	5,176
Fourth Department	7,654
Outside New York State	13,661
Missing County	2,580
Total	91,327

Table A-4

ATTORNEY REGISTRATION

By Date of Birth

Date of Birth	*Total*
1959 and After	418
1953 - 1958	13,879
1948 - 1952	20,384
1943 - 1947	13,920
1938 - 1942	8,685
1933 - 1937	6,459
1928 - 1932	7,139
1923 - 1927	5,508
1918 - 1922	3,986
Before 1918	10,949
Total	91,327

APPENDIX 2

Family Court Statistics

Table A-5
FAMILY COURT
Court Findings in Child Protective Proceedings
January 1, 1984 through December 31, 1984

Region County	Total	Court Findings at Dispositional Hearings				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	6,670	777	3,765	113	2,015	3,003	3,667
Total New York City	2,867	284	1,833	73	677	1,587	1,280
New York	553	30	418	7	98	345	208
Kings	966	85	576	35	270	462	504
Queens	600	77	321	12	190	251	349
Bronx	609	76	428	12	93	456	153
Richmond	139	16	90	7	26	73	66
Total Upstate	3,803	493	1,932	40	1,338	1,416	2,387
Albany	161	32	129	......	......	157	4
Allegany	25	3	16	1	5	4	21
Broome	77	8	56	5	8	19	58
Cattaraugus	57	3	38	1	15	29	28
Cayuga	4	1	......	1	2	3	1
Chautauqua	80	12	60	......	8	18	62
Chemung	166	57	89	......	20	22	144
Chenango	18	3	7	......	8	4	14
Clinton	29	8	12	2	7	23	6
Columbia	30	2	14	......	14	......	30
Cortland	8	2	3	2	1	5	3
Delaware	27	13	12	......	2	6	21
Dutchess	119	7	74	......	38	23	96
Erie	604	51	299	3	251	207	397
Essex	10	3	4	......	3	......	10
Franklin	22	1	8	......	13	7	15
Fulton	67	4	32	......	31	12	55
Genesee	32	3	19	......	10	13	19
Greene	22	......	5	......	17	5	17
Hamilton	......	......	......	......	......	......	......
Herkimer	19	5	6	......	8	5	14
Jefferson	31	1	10	......	20	1	30
Lewis	11	1	6	......	4	2	9
Livingston	17	4	12	......	1	2	15
Madison	62	15	24	......	23	11	51
Monroe	461	73	217	1	170	179	282
Montgomery	18	3	2	......	13	5	13
Nassau	270	1	166	12	91	119	151
Niagara	97	7	28	......	62	13	84
Oneida	......	......	......	......	......	......	......
Onondaga	346	33	182	......	131	204	142
Ontario	19	3	8	1	7	4	15
Orange	......	......	......	......	......	......	......
Orleans	21	2	13	......	6	11	10
Oswego	1	......	1	......	......	......	1
Otsego	26	8	10	......	8	11	15
Putnam	14	......	3	......	11	2	12
Rensselaer	6	......	1	......	5	......	6
Rockland	52	3	31	1	17	18	34
St. Lawrence	25	10	7	1	7	8	17
Saratoga	67	5	19	......	43	13	54
Schenectady	39	......	30	5	4	9	30
Schoharie	29	1	12	......	16	10	19
Schuyler	12	4	1	......	7	4	8
Seneca	......	......	......	......	......	......	......
Steuben	27	15	5	......	7	11	16
Suffolk	284	38	169	......	77	129	155
Sullivan	15	......	......	......	15	1	14
Tioga	9	2	5	......	2	5	4
Tompkins	4	2	2	......	......	......	4
Ulster	43	1	17	2	23	12	31
Warren	17	1	7	......	9	1	16
Washington	33	3	17	1	12	23	10
Wayne	61	26	11	......	24	36	25
Westchester	66	4	29	......	33	6	60
Wyoming	40	9	4	1	26	4	36
Yates	3	......	......	......	3	......	3

Table A-6 (partial)
FAMILY COURT
The Age of Children In Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

Child's Age When Petition Filed (Last Birthday)

Region County	Total	Under 1	1	2	3	4	5	6	7	8
Total New York State	2,083	118	132	130	139	116	126	108	113	105
Total New York City	897	56	65	68	66	49	56	42	50	54
New York	96	9	5	8	10	5	6	6	5	6
Kings	347	16	28	22	21	21	26	20	20	23
Queens	221	11	12	15	20	8	12	4	11	16
Bronx	197	19	19	21	15	12	11	10	13	8
Richmond	36	1	1	2		3	1	2	1	1
Total Upstate	1,186	62	67	62	73	67	70	66	63	51
Albany	32	1	1	1	2	2	5		2	
Allegany	6						1	1		
Broome	29	2	1		1	1		2	3	1
Cattaraugus	16	2		3	1	1	1	1	1	
Cayuga	2			1						1
Chautauqua	17	1	2							
Chemung	73	4	2	3	7	6	9	6	3	1
Chenango	8			2						
Clinton	14	1	1	1	1	2	3	1	1	2
Columbia	13	1	3			1				
Cortland	4									
Delaware	14	1	2	1			2	2	1	2
Dutchess	55	4	2	5	3	3	5	1	6	1
Erie	173	14	13	15	14	8	10	15	11	7
Essex	4							1		
Franklin	3		1							
Fulton	28		1	1		2	1	1		1
Genesee	4									
Greene	6	1								
Hamilton										
Herkimer	13	1	1	1	1	1		1	1	
Jefferson	9		1	2	1		1	1		1
Lewis	2						1			
Livingston	13		1		1	1		1		
Madison	25		1	3	1	2	2		1	2
Monroe	164	12	8	3	12	14	7	5	12	8
Montgomery	3									1
Nassau	46	2	4	1	3	2	1	1	1	
Niagara	18			1				1	1	2
Oneida										
Onondaga	116	5	8	4	10	7	3	10	8	5
Ontario	9		1		1		1			
Orange										
Orleans	9		3					1		
Oswego										
Otsego	10		1		2	1	2		1	
Putnam	3				1	1				
Rensselaer	4		1	1		1				
Rockland	11					1	1			1
St. Lawrence	17	1		1	1	2	1	4	1	
Saratoga	18					3		2		1
Schenectady	8		1	1			2			1
Schoharie	2									
Schuyler	7		1	1	1	1	1	1		1
Seneca										
Steuben	20	1	1	1			1	3	1	2
Suffolk	61	4		3	3		3		5	4
Sullivan	5	1	1				1			
Tioga	4			1	1					
Tompkins	3									1
Ulster	11	1	3	3	1					
Warren	3									
Washington	9				1		2	1	1	
Wayne	34			1	1	2		3	2	4
Westchester	7				2	2	1			
Wyoming	19	2	1	1			2			1
Yates	2									

Table A-6 (concluded)
FAMILY COURT
The Age of Children In Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

Child's Age When Petition Filed (Last Birthday)

Region County	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	102	88	102	124	147	137	136	122	38
Total New York City	47	34	45	50	50	41	39	49	36
New York	7	2	4	5	4	2	6	3	3
Kings	14	8	13	24	19	18	14	17	23
Queens	14	12	14	8	14	12	10	18	10
Bronx	10	9	11	10	9	8	6	6	......
Richmond	2	3	3	3	4	1	3	5	......
Total Upstate	55	54	57	74	97	96	97	73	2
Albany	5	2	1	1	2	3	2	2	......
Allegany	1	1	1	......	1	......	......	......	......
Broome	3	......	1	2	3	6	2	1	......
Cattaraugus	......	......	1	1	2	......	1	1	......
Cayuga	......	......	......	......	......	......	......	......	......
Chautauqua	......	1	......	2	4	3	2	2	......
Chemung	6	2	3	3	8	3	4	3	......
Chenango	......	......	......	1	3	1	......	1	......
Clinton	......	......	......	......	......	......	......	1	......
Columbia	2	......	......	......	1	1	4	......	......
Cortland	......	1	......	......	......	1	1	1	......
Delaware	......	1	......	......	1	1	......	......	......
Dutchess	1	3	2	3	3	2	7	4	......
Erie	7	6	8	9	7	12	7	9	1
Essex	......	1	1	......	1	......	......	......	......
Franklin	......	1	......	......	......	......	1	......	......
Fulton	2	1	1	3	5	3	2	4	......
Genesee	......	......	......	2	1	1	......	......	......
Greene	1	......	1	1	1	......	1	......	......
Hamilton	......	......	......	......	......	......	......	......	......
Herkimer	......	1	1	1	1	1	1	......	......
Jefferson	......	1	......	......	......	......	......	1	......
Lewis	......	......	......	1	......	......	......	......	......
Livingston	......	1	......	1	2	......	2	3	......
Madison	1	1	1	2	3	2	1	2	......
Monroe	4	8	10	9	9	18	12	13	......
Montgomery	......	1	......	......	1	......	......	......	......
Nassau	4	......	3	4	4	7	6	3	......
Niagara	......	1	1	3	......	4	2	2	......
Oneida	......	......	......	......	......	......	......	......	......
Onondaga	7	8	6	7	8	11	7	2	......
Ontario	......	1	......	......	3	1	......	1	......
Orange	......	......	......	......	......	......	......	......	......
Orleans	1	1	1	2	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	1	2	......	......	......	......
Putnam	......	......	......	1	......	......	......	......	......
Rensselaer	1	......	......	......	......	......	......	......	......
Rockland	......	1	......	......	3	......	1	3	......
St. Lawrence	......	......	2	......	......	......	2	2	......
Saratoga	......	1	1	2	3	2	2	1	......
Schenectady	......	......	1	......	......	2	......	......	......
Schoharie	......	......	1	......	......	1	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......
Steuben	1	1	1	3	1	1	2	......	......
Suffolk	3	4	3	3	6	3	10	7	......
Sullivan	......	......	......	......	......	1	......	1	......
Tioga	1	......	......	......	......	......	1	......	......
Tompkins	......	......	......	......	1	......	1	......	......
Ulster	......	......	1	......	......	......	2	......	......
Warren	1	......	......	......	......	1	1	......	......
Washington	......	1	1	......	1	1	......	......	......
Wayne	2	1	1	3	5	2	5	2	......
Westchester	......	......	......	......	......	......	1	......	1
Wyoming	1	1	2	2	1	1	3	1	......
Yates	......	......	......	1	......	......	1	......	......

Table A-7 (partial)
FAMILY COURT
Reasons for Petitions in Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

Region County	Total Reasons (Child Abuse Only)	Reasons for Petitions													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental Emotional or Physical Health (Etc.)	Inadequate Food Shelter or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Total New York State	911	270	95	546	91	20	7	6	4	8	12	13	3	1	1
Total New York City	373	165	32	176	34	11	4	3	4	6	7	6	2	1	—
New York	41	27	5	9	4	1	—	—	—	—	—	—	—	—	—
Kings	140	63	16	61	10	2	2	1	1	4	4	1	2	1	—
Queens	90	27	5	58	6	—	1	1	1	—	—	1	—	—	—
Bronx	84	36	6	42	4	3	—	—	1	1	2	—	—	—	—
Richmond	18	12	—	6	10	5	1	1	1	1	1	4	—	—	—
Total Upstate	538	105	63	370	57	9	3	3	—	2	5	7	1	—	1
Albany	32	2	4	26	—	—	—	—	—	—	—	—	—	—	—
Allegany	4	—	—	4	—	—	—	—	—	—	—	—	—	—	—
Broome	13	2	—	11	9	—	—	—	—	—	—	—	—	—	—
Cattaraugus	3	—	—	3	1	—	—	—	—	—	—	—	—	—	—
Cayuga	2	1	—	1	—	—	—	—	—	—	—	—	—	—	—
Chautauqua	12	2	—	10	—	—	—	—	—	—	—	—	—	—	—
Chemung	46	18	—	28	15	1	—	—	—	—	—	—	—	—	—
Chenango	3	—	—	3	1	—	—	—	—	—	—	—	—	—	—
Clinton	10	2	3	5	—	—	—	—	—	—	—	—	—	—	—
Columbia	2	1	—	1	—	—	—	—	—	—	—	—	—	—	—
Cortland	4	2	—	2	2	—	—	—	—	—	2	—	—	—	—
Delaware	13	3	2	8	—	—	—	—	—	—	—	—	—	—	—
Dutchess	8	2	—	6	1	1	—	—	—	1	1	—	—	—	—
Erie	54	13	14	27	—	1	—	—	—	—	—	—	—	—	—
Essex	3	—	—	3	—	—	—	—	—	—	—	—	—	—	—
Franklin	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—
Fulton	4	—	—	4	2	1	—	—	—	—	—	—	—	—	—
Genesee	3	—	—	3	—	—	—	—	—	—	—	—	—	—	—
Greene	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Hamilton	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Herkimer	5	1	—	4	1	—	—	—	—	—	—	—	—	—	—
Jefferson	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—
Lewis	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—
Livingston	4	—	—	4	—	—	—	—	—	—	—	—	—	—	—
Madison	15	2	—	13	—	—	—	—	—	—	—	—	—	—	—
Monroe	99	19	30	50	1	1	—	—	—	—	—	—	—	—	—

Table A-7 (concluded)
FAMILY COURT
Reasons for Petitions in Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

		Reasons for Petition													
		Child Abuse			Neglected Child										
Region County	Total Reasons (Child Abuse Only)	Physical Abuse	Risk of Physical Injury	Sex Offense Against Child	Impairment of Mental Emotional or Physical Health (Etc.)	Inadequate Food Shelter or Clothing	Inadequate Educational Care	Inadequate Medical or Surgical Care	Abandonment or Desertion	Parental Use of Drugs	Parental Alcoholism	Parental Sexual Misconduct	Parental Mental Illness	Parental Fighting	Other
Montgomery	2	—	—	2	—	1	1	—	—	1	1	—	—	—	—
Nassau	9	2	—	7	13	—	—	—	—	—	—	—	—	—	—
Niagara	9	2	—	7	—	—	—	—	—	—	—	—	—	—	—
Oneida	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onondaga	43	8	5	30	—	—	—	—	—	—	—	—	—	—	—
Ontario	4	—	—	4	—	—	—	—	—	—	—	—	—	—	—
Orange	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Oleans	1	—	—	1	1	—	—	—	—	—	—	—	—	—	—
Oswego	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Otsego	8	2	—	6	—	—	—	—	—	—	—	—	—	—	—
Putnam	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Rensselaer	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Rockland	3	1	—	2	—	—	—	1	—	—	—	—	—	—	—
St. Lawrence	10	1	—	9	—	—	1	—	—	—	—	—	—	—	—
Saratoga	2	—	—	2	3	—	—	1	—	—	—	—	—	—	—
Schenectady	7	4	2	1	—	—	—	—	—	—	1	—	—	—	—
Schoharie	1	—	—	1	—	—	—	—	—	—	—	—	—	—	—
Schuyler	4	4	—	—	—	—	—	—	—	—	—	—	—	—	—
Seneca	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Steuben	14	1	1	12	—	2	—	1	—	—	—	1	—	—	—
Suffolk	27	3	—	24	6	1	—	—	—	—	—	4	1	—	1
Sullivan	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Tioga	2	—	—	2	—	—	—	—	—	—	—	—	—	—	—
Tompkins	2	—	—	2	—	—	—	—	—	—	—	—	—	—	—
Ulster	3	1	—	2	—	—	—	—	—	—	—	—	—	—	—
Warren	1	—	—	1	—	—	—	—	—	—	—	2	—	—	—
Washington	4	—	—	4	—	—	—	—	—	—	—	—	—	—	—
Wayne	25	—	—	25	1	—	—	—	—	—	—	—	—	—	—
Westchester	6	4	2	—	—	—	—	—	—	—	—	—	—	—	—
Wyoming	9	2	—	7	—	—	1	—	—	—	—	—	—	—	—
Yates	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Due to the reporting of multiple reasons for petitions,
the number of reasons exceeds the number of petitions reported as initially disposed

Table A-8 (partial)
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Types of Petitioners
January 1, 1984 through December 31, 1984

Region County	Total	Petition Originated By													
		Respondents Parent	Respondents Child	Respondents Spouse or Former Spouse	Other Members of Respondents Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Courts Motion)	Hospital (On Courts Motion)	Private Medical Doctor (On Courts Motion)	Other
Total New York State	2,083	8	1	2	—	6	2	5	1,889	9	155	4	—	—	2
Total New York City	897	4	1	—	—	3	2	2	725	6	153	—	—	—	1
New York	96	2	—	—	—	1	—	—	93	—	—	—	—	—	—
Kings	347	—	—	—	—	—	1	2	220	3	120	—	—	—	1
Queens	221	2	1	—	—	2	—	—	182	1	33	—	—	—	—
Bronx	197	—	—	—	—	—	—	—	195	2	—	—	—	—	—
Richmond	36	—	—	—	—	—	1	—	35	—	—	—	—	—	—
Total Upstate	1,186	4	—	2	—	3	—	3	1,164	3	2	4	—	—	1
Albany	32	—	—	—	—	—	—	—	32	—	—	—	—	—	—
Allegany	6	—	—	—	—	—	—	—	6	—	—	—	—	—	—
Broome	29	—	—	—	—	—	—	—	29	—	—	—	—	—	—
Cattaragus	16	—	—	—	—	—	—	—	16	—	—	—	—	—	—
Cayuga	2	—	—	—	—	—	—	—	2	—	—	—	—	—	—
Chautauqua	17	—	—	—	—	—	—	—	17	—	—	—	—	—	—
Chemung	73	—	—	—	—	—	—	—	73	—	—	—	—	—	—
Chenango	8	—	—	—	—	—	—	—	8	—	—	—	—	—	—
Clinton	14	—	—	—	—	—	—	—	14	—	—	—	—	—	—
Columbia	13	—	—	—	—	—	—	—	13	—	—	—	—	—	—
Cortland	4	—	—	—	—	—	—	—	4	—	—	—	—	—	—
Delaware	14	—	—	—	—	—	—	—	14	—	—	—	—	—	—
Dutchess	55	1	—	—	—	—	—	—	54	—	—	—	—	—	—
Erie	173	—	—	1	—	—	—	—	171	1	—	—	—	—	—
Essex	4	—	—	—	—	—	—	—	4	—	—	—	—	—	—
Franklin	3	—	—	—	—	—	—	—	3	—	—	—	—	—	—
Fulton	28	—	—	—	—	—	—	—	28	—	—	—	—	—	—
Genesee	4	—	—	—	—	—	—	—	4	—	—	—	—	—	—
Greene	6	—	—	—	—	—	—	—	6	—	—	—	—	—	—
Hamilton	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Herkimer	13	—	—	—	—	—	—	—	10	—	—	3	—	—	—
Jefferson	9	—	—	—	—	—	—	—	9	—	—	—	—	—	—
Lewis	2	—	—	—	—	—	—	—	2	—	—	—	—	—	—
Livingston	13	—	—	—	—	—	—	—	13	—	—	—	—	—	—
Madison	25	—	—	—	—	—	—	—	25	—	—	—	—	—	—
Monroe	164	1	—	—	—	—	—	2	158	1	1	—	—	—	1
Montgomery	3	—	—	—	—	—	—	—	3	—	—	—	—	—	—
Nassau	46	—	—	—	—	—	—	1	45	—	—	—	—	—	—

Table A-8 (concluded)
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Types of Petitioners
January 1, 1984 through December 31, 1984

		Petition Originated By													
Region County	Total	Respondents Parent	Respondents Child	Respondents Spouse or Former Spouse	Other Members of Respondents Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized Private Agency	School (On Courts Motion)	Hospital (On Courts Motion)	Private Medical Doctor (On Courts Motion)	Other
Niagara	18	—	—	—	—	—	—	—	18	—	—	—	—	—	—
Oneida	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Onondaga	116	—	—	—	—	—	—	—	116	—	—	—	—	—	—
Ontario	9	—	—	—	—	—	—	—	9	—	—	—	—	—	—
Orange	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Orleans	9	—	—	—	—	—	—	—	9	—	—	—	—	—	—
Oswego	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Otsego	10	—	—	—	—	—	—	—	10	—	—	—	—	—	—
Putnam	3	1	—	—	—	—	—	—	2	—	—	—	—	—	—
Rensselaer	4	—	—	—	—	—	—	—	4	—	—	—	—	—	—
Rockland	11	—	—	—	—	—	—	—	11	—	—	—	—	—	—
St. Lawrence	17	—	—	—	—	—	—	—	17	—	—	—	—	—	—
Saratoga	18	—	—	—	—	—	—	—	17	—	1	—	—	—	—
Schenectady	8	—	—	—	—	—	—	—	8	—	—	—	—	—	—
Schoharie	2	—	—	—	—	—	—	—	2	—	—	—	—	—	—
Schuyler	7	—	—	—	—	—	—	—	7	—	—	—	—	—	—
Seneca	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Steuben	20	1	—	—	—	—	—	—	19	—	—	—	—	—	—
Suffolk	61	—	—	—	—	—	—	—	59	1	—	1	—	—	—
Sullivan	5	—	—	—	—	—	—	—	5	—	—	—	—	—	—
Tioga	4	—	—	—	—	—	—	—	4	—	—	—	—	—	—
Tompkins	3	—	—	—	—	—	—	—	3	—	—	—	—	—	—
Ulster	11	—	—	—	—	—	—	—	11	—	—	—	—	—	—
Warren	3	—	—	1	—	—	—	—	2	—	—	—	—	—	—
Washington	9	—	—	—	—	—	—	—	9	—	—	—	—	—	—
Wayne	34	—	—	—	—	—	—	—	34	—	—	—	—	—	—
Westchester	7	—	—	—	—	3	—	—	4	—	—	—	—	—	—
Wyoming	19	—	—	—	—	—	—	—	19	—	—	—	—	—	—
Yates	2	—	—	—	—	—	—	—	2	—	—	—	—	—	—

Table A-9
FAMILY COURT
Temporary Removal of Children in Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

Region County	Total*	No Temporary Removal	Temporary Removal Before Petition	Temporary Removal After Petition	Length of Removal After Petition 1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or More
Total New York State	2,083	836	325	1,216	47	35	35	47	302	370	329	46	5
Total New York City	897	253	1	643	11	7	6	8	110	241	235	24	1
New York	96	12		84		1	1		19	42	16	5	
Kings	347	43	1	303	7	5	3	2	43	108	125	10	
Queens	221	135		86	2	1	2	1	25	27	26	2	
Bronx	197	59		138	1			5	19	49	57	7	
Richmond	36	4		32	1				4	15	11		1
Total Upstate	1,186	583	324	573	36	28	29	39	192	129	94	22	4
Albany	32	16	7	16	2	1		1	10	2			
Allegany	6	4	2	1						1			
Broome	29	11	3	18		1	1	2	9	5			
Cattaraugus	16	4	5	12	1		1	2	1		3	4	
Cayuga	2	2											
Chautauqua	17	3	1	14			1		5	8			
Chemung	73	26	35	46	3	1	3	2	14	14	9		
Chenango	8	2	6	6	2				3	1			
Clinton	14	11	3	3				3					
Columbia	13	8	4	3	1			1	1				
Cortland	4	1		3				2		1			
Delaware	14	8	2	5				4			1		
D[illegible]ness	55	21	20	31	2		1	1	24	1	2		
Erie	173	80	3	92	4	5	4	3	27	16	24	8	1
Essex	4		4	4						1	3		
Franklin	3	1		2					1	1			
Fulton	28	5	23	19		2			6	5	5	1	
Genesee	4	4											
Greene	6	1		5		4			1				
Hamilton													
Herkimer	13	1	5	12	5	1		2		1	3		
Jefferson	9	5	1	4			1		3				
Lewis	2	1		1					1				
Livingston	13	13											
Madison	25	13	9	12			1	2	4	5			
Monroe	164	97	49	67	1	1	1	8	27	17	12		
Montgomery	3		3	1							1		
Nassau	46	25	16	21	1				5	9	5	1	
Niagara	18	9	9	7			4		3				
Oneida													
Onondaga	116	34	48	79	4	2	6	3	24	27	7	6	
Ontario	9	9											
Orange													
Orleans	9	7		2						2			
Oswego													
Otsego	10	2	8	8	2				3	1	2		
Putnam	3	2		1							1		
Rensselaer	4	2	2	2			2						
Rockland	11	9	1	2					1	1			
St. Lawrence	17	10	5	4	1				1	2			
Saratoga	18	13	3	5					4		1		
Schenectady	8	4	4	2		1	1						
Schoharie	2	1	1	1						1			
Schuyler	7	6	1	1					1				
Seneca													
Steuben	20	12	3	8					4		2	2	
Suffolk	61	36	18	22	4	3	1		1	5	5		3
Sullivan	5	2		3							3		
Tioga	4	2	1	2		1				1			
Tompkins	3	2	1	1				1					
Ulster	11	5	2	5	2				3				
Warren	3	2		1		1							
Washington	9	9											
Wayne	34	29	5	5							5		
Westchester	7	2	5	5					4	1			
Wyoming	19	9	6	9	1	4	1	2	1				
Yates	2	2											

*Figures is columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 295 such proceedings statewide.

Table A-10
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Length Of Time Between Filing Of Petition And Initial Fact-Finding Hearing
January 1, 1984 through December 31, 1984

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without I.F.H.
Total New York State	2,083	433	85	95	87	554	470	163	20	3	173
Total New York City	897	40	17	15	17	288	288	102	6	1	123
New York	96	1		7	8	31	40	9			
Kings	347	16	4		6	118	87	41	2		73
Queens	221	5	7	3	1	68	88	25	4	1	19
Bronx	197	18		4	2	57	63	23			30
Richmond	36		6	1		14	10	4			1
Total Upstate	1,186	393	68	80	70	266	182	61	14	2	50
Albany	32	2	2	3	2	13	6				2
Allegany	6	1			3	2					
Broome	29	11		4	2	6	6				
Cattaraugus	16	4	3	4	1	1	2	1			
Cayuga	2		1		1						
Chautauqua	17	13	3		1						
Chemung	73	3	1	3	1	45	14	6			
Chenango	8	5					2	1			
Clinton	14	3				6	2				3
Columbia	13	1		3	2	4	3				
Cortland	4					4					
Delaware	14	8	1	2	1	2					
Dutchess	55	34	7	11		1					2
Erie	173	165	3	5							
Essex	4		3	1							
Franklin	3	3									
Fulton	28	1			2	9	8	7	1		
Genesee	4					3	1				
Greene	6	1	5								
Hamilton											
Herkimer	13	9				1	3				
Jefferson	9	5	1	2		1					
Lewis	2	1				1					
Livingston	13	5		8							
Madison	25	4	1	8	2	7	2				1
Monroe	164	1	7	5	11	52	42	8	2		36
Montgomery	3	3									
Nassau	46	24		2	10	9			1		
Niagara	18	1	1	5	2	7	2				
Oneida											
Onondaga	116	2	1	4	11	33	43	15	3		4
Ontario	9	1		2	1	3	2				
Orange											
Orleans	9			1		6	2				
Oswego											
Otsego	10	2			3	1		2			2
Putnam	3	3									
Rensselaer	4		1		3						
Rockland	11	1	2		2	3	2	1			
St. Lawrence	17	2				4	11				
Saratoga	18	2				7	5	3	1		
Schenectady	8	2	1		1		3		1		
Schoharie	2	2									
Schuyler	7	7									
Seneca											
Steuben	20	1	2	1	2	11	1	1	1		
Suffolk	61	22	7	3	1	14	7	3	2	2	
Sullivan	5	3	2								
Tioga	4	3	1								
Tompkins	3		2			1					
Ulster	11	7	2	1		1					
Warren	3	2		1							
Washington	9	3			4	1	1				
Wayne	34	5	3		1	3	9	12	1		
Westchester	7	2				2	1	1	1		
Wyoming	19	13	3	1		2					
Yates	2		2								

Table A-11
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Number of Adjournments Between Filing of Petition and Initial Fact-Finding Hearing*
January 1, 1984 through December 31, 1984

Region County	Total	Number of Adjournments										
		None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	1,910	435	302	236	273	150	161	110	63	56	40	84
Total New York City	774	34	65	84	153	106	92	74	44	30	25	67
New York	96	5	4	2	20	18	10	13	10	......	4	10
Kings	274	16	29	30	63	42	22	29	8	10	6	19
Queens	202	6	13	28	27	24	33	20	15	4	9	23
Bronx	167	7	18	19	32	18	23	10	10	12	6	12
Richmond	35	......	1	5	11	4	4	2	1	4	......	3
Total Upstate	1,136	401	237	152	120	44	69	36	19	26	15	17
Albany	30	11	5	4	3	3	1	3	......	......	......	......
Allegany	6	2	2	1	1	......	......	......	......	......	......	......
Broome	29	19	7	2	1	......	......	......	......	......	......	......
Cattaraugus	16	11	3	......	1	1	......	......	......	......	......	......
Cayuga	2	......	1	1	......	......	......	......	......	......	......	......
Chautauqua	17	13	4	......	......	......	......	......	......	......	......	......
Chemung	73	6	23	14	19	3	6	......	1	1	......	......
Chenango	8	4	4	......	......	......	......	......	......	......	......	......
Clinton	11	11	......	......	......	......	......	......	......	......	......	......
Columbia	13	5	4	1	3	......	......	......	......	......	......	......
Cortland	4	2	......	2	......	......	......	......	......	......	......	......
Delaware	14	14	......	......	......	......	......	......	......	......	......	......
Dutchess	53	2	51	......	......	......	......	......	......	......	......	......
Erie	173	173	......	......	......	......	......	......	......	......	......	......
Essex	4	......	3	1	......	......	......	......	......	......	......	......
Franklin	3	1	2	......	......	......	......	......	......	......	......	......
Fulton	28	5	3	14	......	2	......	......	......	3	......	1
Genesee	4	......	1	1	......	1	1	......	......	......	......	......
Greene	6	6	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	13	8	2	......	3	......	......	......	......	......	......	......
Jefferson	9	5	3	1	......	......	......	......	......	......	......	......
Lewis	2	2	......	......	......	......	......	......	......	......	......	......
Livingston	13	2	11	......	......	......	......	......	......	......	......	......
Madison	24	6	2	2	9	......	2	2	1	......	......	......
Monroe	128	4	3	18	19	11	27	14	11	15	5	1
Montgomery	3	......	......	......	......	......	......	......	......	......	......	3
Nassau	46	13	4	12	8	5	1	2	......	......	......	1
Niagara	18	13	5	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	112	3	11	19	22	15	17	6	6	1	8	4
Ontario	9	......	1	6	1	......	1	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	9	1	......	7	......	......	......	1	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	8	2	2	3	1	......	......	......	......	......	......	......
Putnam	3	1	2	......	......	......	......	......	......	......	......	......
Rensselaer	4	1	3	......	......	......	......	......	......	......	......	......
Rockland	11	2	3	3	2	1	......	......	......	......	......	......
St. Lawrence	17	2	4	4	5	......	2	......	......	......	......	......
Saratoga	18	1	6	2	4	......	2	2	......	1	......	......
Schenectady	8	......	4	4	......	......	......	......	......	......	......	......
Schoharie	2	......	......	1	1	......	......	......	......	......	......	......
Schuyler	7	7	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	20	5	8	4	2	......	......	1	......	......	......	......
Suffolk	61	20	10	16	3	2	1	1	......	......	1	7
Sullivan	5	2	......	......	3	......	......	......	......	......	......	......
Tioga	4	......	4	......	......	......	......	......	......	......	......	......
Tompkins	3	1	......	2	......	......	......	......	......	......	......	......
Ulster	11	8	3	......	......	......	......	......	......	......	......	......
Warren	3	......	1	1	1	......	......	......	......	......	......	......
Washington	9	3	6	......	......	......	......	......	......	......	......	......
Wayne	34	1	5	4	6	......	8	4	......	5	1	......
Westchester	7	......	4	1	2	......	......	......	......	......	......	......
Wyoming	19	1	17	1	......	......	......	......	......	......	......	......
Yates	2	2	......	......	......	......	......	......	......	......	......	......

*This table includes only cases in which there was an initial fact-finding hearing.

Table A-12
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Length Of Time Between Initial Fact-Finding Hearing and Dispositional Hearing
January 1, 1984 through December 31, 1984

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without I.F.H.
Total New York State	2,083	627	32	39	35	503	318	209	120	27	173
Total New York City	897	187	3	5	3	286	171	68	33	18	123
New York	96	20	1	3	......	48	13	4	......	7	......
Kings	347	47	......	......	......	70	92	33	22	10	73
Queens	221	81	2	1	3	69	24	12	10	......	19
Bronx	197	34	......	1	......	82	30	19	......	1	30
Richmond	36	5	......	......	......	17	12	......	1	......	1
Total Upstate	1,186	440	29	34	32	217	147	141	87	9	50
Albany	32	19	......	......	......	8	......	3	......	......	2
Allegany	6	3	......	......	......	2	......	1	......	......	......
Broome	29	16	1	1	1	7	3	......	......	......	......
Cattaraugus	16	4	1	......	1	1	......	5	4	......	......
Cayuga	2	......	......	......	......	2	......	......	......	......	......
Chautauqua	17	......	......	2	......	6	7	2	......	......	......
Chemung	73	49	1	2	......	14	7	......	......	......	......
Chenango	8	5	......	......	......	3	......	......	......	......	......
Clinton	14	6	......	......	3	......	......	......	2	......	3
Columbia	13	10	......	......	......	......	1	......	2	......	......
Cortland	4	2	......	......	......	......	2	......	......	......	......
Delaware	14	3	......	......	......	3	8	......	......	......	......
Dutchess	55	2	2	2	2	12	15	6	12	......	2
Erie	173	11	5	6	2	41	39	53	13	3	......
Essex	4	......	......	......	......	......	......	3	1	......	......
Franklin	3	......	......	......	......	2	1	......	......	......	......
Fulton	28	18	1	......	......	......	1	2	6	......	......
Genesee	4	......	......	......	1	1	1	......	1	......	......
Greene	6	1	......	......	......	......	......	5	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	13	2	......	6	......	......	1	1	3	......	......
Jefferson	9	1	......	2	2	2	2	......	......	......	......
Lewis	2	1	......	......	......	1	......	......	......	......	......
Livingston	13	10	......	2	......	1	......	......	......	......	......
Madison	25	18	......	......	......	6	......	......	......	......	1
Monroe	164	61	13	6	6	26	9	7	......	......	36
Montgomery	3	......	......	......	......	......	......	3	......	......	......
Nassau	46	......	......	......	......	8	18	9	7	4	......
Niagara	18	9	......	......	3	5	......	......	1	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	116	80	......	......	2	17	6	3	4	......	4
Ontario	9	6	......	......	......	......	......	1	2	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	9	......	......	......	......	8	......	1	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......
Otsego	10	......	......	2	3	3	......	......	......	......	2
Putnam	3	......	......	......	......	......	2	1	......	......	......
Rensselaer	4	3	......	......	......	1	......	......	......	......	......
Rockland	11	2	......	......	1	2	3	1	2	......	......
St. Lawrence	17	13	......	......	......	4	......	......	......	......	......
Saratoga	18	16	......	......	......	......	......	2	......	......	......
Schenectady	8	7	......	......	......	......	1	......	......	......	......
Schoharie	2	......	......	......	......	......	2	......	......	......	......
Schuyler	7	......	......	......	......	1	......	......	6	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	20	9	......	2	......	5	......	4	......	......	......
Suffolk	61	15	1	......	......	9	7	18	9	2	......
Sullivan	5	2	......	......	......	......	......	3	......	......	......
Tioga	4	......	......	......	......	......	2	2	......	......	......
Tompkins	3	1	1	......	......	1	......	......	......	......	......
Ulster	11	4	......	......	......	3	2	2	......	......	......
Warren	3	......	......	......	......	......	......	......	3	......	......
Washington	9	6	......	......	......	2	1	......	......	......	......
Wayne	34	14	......	......	2	4	4	1	9	......	......
Westchester	7	4	......	......	......	2	1	......	......	......	......
Wyoming	19	7	3	1	3	2	1	2	......	......	......
Yates	2	......	......	......	......	2	......	......	......	......	......

Table A-13
FAMILY COURT
Child Protective Proceedings Involving Child Abuse
Number of Adjournments Between Initial Fact-Finding Hearing and Dispositional Hearing*
January 1, 1984 through December 31, 1984

	Number of Adjournments											
Region County	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	1,902	696	427	270	179	127	56	40	29	24	15	39
Total New York City	769	173	239	144	90	52	24	12	11	5	4	15
New York	96	21	39	22	9	2	......	......	3	......	......	......
Kings	274	37	73	58	48	14	16	8	4	......	4	12
Queens	197	77	39	29	20	18	3	3	2	5	......	1
Bronx	167	33	76	25	13	11	5	......	2	......	......	2
Richmond	35	5	12	10	......	7	......	1	......	......	......	......
Total Upstate	1,133	523	188	126	89	75	32	28	18	19	11	24
Albany	30	11	12	5	1	......	1	......	......	......	......	......
Allegany	6	3	1	1	......	1	......	......	......	......	......	......
Broome	29	7	18	1	3	......	......	......	......	......	......	......
Cattaraugus	16	9	1	3	1	2	......	......	......	......	......	......
Cayuga	2	2	......	......	......	......	......	......	......	......	......	......
Chautauqua	17	......	7	3	5	2	......	......	......	......	......	......
Chemung	73	62	9	......	2	......	......	......	......	......	......	......
Chenango	8	6	2	......	......	......	......	......	......	......	......	......
Clinton	11	11	......	......	......	......	......	......	......	......	......	......
Columbia	13	10	......	......	1	2	......	......	......	......	......	......
Cortland	4	4	......	......	......	......	......	......	......	......	......	......
Delaware	14	12	......	2	......	......	......	......	......	......	......	......
Dutchess	53	4	3	15	10	14	2	3	2	......	......	......
Erie	173	7	10	23	35	32	11	18	9	10	10	8
Essex	4	......	4	......	......	......	......	......	......	......	......	......
Franklin	3	......	1	2	......	......	......	......	......	......	......	......
Fulton	28	22	......	......	5	1	......	......	......	......	......	......
Genesee	4	......	2	2	......	......	......	......	......	......	......	......
Greene	6	5	......	......	......	1	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	13	10	......	......	......	3	......	......	......	......	......	......
Jefferson	9	2	4	1	......	......	2	......	......	......	......	......
Lewis	2	1	......	1	......	......	......	......	......	......	......	......
Livingston	13	10	3	......	......	......	......	......	......	......	......	......
Madison	24	20	1	2	1	......	......	......	......	......	......	......
Monroe	128	66	23	17	9	5	4	......	4	......	......	......
Montgomery	3	......	......	3	......	......	......	......	......	......	......	......
Nassau	46	1	22	8	3	1	......	......	......	6	......	5
Niagara	18	18	......	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	109	83	10	9	2	3	2	......	......	......	......	......
Ontario	9	9	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	9	......	8	1	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	8	7	1	......	......	......	......	......	......	......	......	......
Putnam	3	......	......	......	2	......	1	......	......	......	......	......
Rensselaer	4	4	......	......	......	......	......	......	......	......	......	......
Rockland	11	3	2	6	......	......	......	......	......	......	......	......
St. Lawrence	17	14	2	......	......	......	......	......	......	......	......	1
Saratoga	18	16	......	2	......	......	......	......	......	......	......	......
Schenectady	8	5	1	......	1	......	......	......	......	......	1	......
Schoharie	2	2	......	......	......	......	......	......	......	......	......	......
Schuyler	7	6	......	......	1	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	20	10	8	......	......	......	2	......	......	......	......	......
Suffolk	61	8	4	14	3	2	7	7	3	3	......	10
Sullivan	5	5	......	......	......	......	......	......	......	......	......	......
Tioga	4	......	2	2	......	......	......	......	......	......	......	......
Tompkins	3	2	1	......	......	......	......	......	......	......	......	......
Ulster	11	8	3	......	......	......	......	......	......	......	......	......
Warren	3	1	1	......	1	......	......	......	......	......	......	......
Washington	9	6	2	1	......	......	......	......	......	......	......	......
Wayne	34	17	8	1	2	6	......	......	......	......	......	......
Westchester	7	6	......	1	......	......	......	......	......	......	......	......
Wyoming	19	8	10	......	1	......	......	......	......	......	......	......
Yates	2	......	2	......	......	......	......	......	......	......	......	......

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*This table includes only cases in which there was an initial fact-finding hearing.

Table A-14
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Child Abuse
Reason For Petition Abuse Only
January 1, 1984 through December 31, 1984

Region County	Total	Court Findings at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	1,820	707	568	66	479	830	990
Total New York City	800	265	291	51	193	421	379
New York	85	25	41	7	12	45	40
Kings	295	78	114	27	76	131	164
Queens	206	74	53	9	70	98	108
Bronx	192	75	74	8	35	128	64
Richmond	22	13	9	......	......	19	3
Total Upstate	1,020	442	277	15	286	409	611
Albany	32	32	......	......	......	32	......
Allegany	6	3	......	1	2	1	5
Broome	18	4	12	......	2	6	12
Cattaraugus	9	3	2	......	4	3	6
Cayuga	2	1	......	1	......	2	......
Chautauqua	17	12	5	......	......	3	14
Chemung	52	41	9	......	2	8	44
Chenango	7	2	3	......	2	3	4
Clinton	14	8	......	2	4	11	3
Columbia	13	2	5	......	6	......	13
Cortland	2	2	......	......	......	2	......
Delaware	14	13	1	......	......	4	10
Dutchess	53	6	29	......	18	8	45
Erie	172	50	62	3	57	57	115
Essex	4	3	......	......	1	......	4
Franklin	3	1	......	......	2	1	2
Fulton	5	1	......	......	4	......	5
Genesee	4	3	......	......	1	1	3
Greene	6	......	1	......	5	1	5
Hamilton	......	......	......	......	......	......	......
Herkimer	8	4	......	......	4	3	5
Jefferson	9	1	2	......	6	......	9
Lewis	2	1	1	......	......	1	1
Livingston	13	4	9	......	......	1	12
Madison	25	15	9	......	1	7	18
Monroe	159	71	49	1	38	76	83
Montgomery	2	2	......	......	......	2	......
Nassau	......	......	......	......	......	......	......
Niagara	18	7	......	......	11	5	13
Oneida	......	......	......	......	......	......	......
Onondaga	115	33	44	......	38	72	43
Ontario	9	3	4	1	1	1	8
Orange	......	......	......	......	......	......	......
Orleans	6	1	5	......	......	5	1
Oswego	......	......	......	......	......	......	......
Otsego	10	8	......	......	2	1	9
Putnam	3	......	2	......	1	......	3
Rensselaer	3	......	......	......	3	......	3
Rockland	10	3	2	......	5	5	5
St. Lawrence	16	9	1	1	5	5	11
Saratoga	14	2	2	......	10	2	12
Schenectady	4	......	......	4	......	......	4
Schoharie	2	1	......	......	1	......	2
Schuyler	7	4	......	......	3	3	4
Seneca	......	......	......	......	......	......	......
Steuben	17	12	1	......	4	6	11
Suffolk	49	27	12	......	10	27	22
Sullivan	5	......	......	......	5	......	5
Tioga	4	2	......	......	2	2	2
Tompkins	3	2	1	......	......	......	3
Ulster	7	1	1	......	5	2	5
Warren	3	1	......	......	2	......	3
Washington	9	3	1	1	4	8	1
Wayne	33	25	1	......	7	26	7
Westchester	6	4	1	......	1	2	4
Wyoming	14	9	......	......	5	4	10
Yates	2	......	......	......	2	......	2

Table A-15
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Child Abuse
Reason For Petition Both Abuse and Neglect
January 1, 1984 through December 31, 1984

Region County	Total	Court Findings at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	200	28	113	26	33	85	115
Total New York City	73	9	46	8	10	44	29
New York	8	2	5	......	1	7	1
Kings	46	6	31	3	6	24	22
Queens	10	......	7	1	2	6	4
Bronx	......	......	......	......	......	......	......
Richmond	9	1	3	4	1	7	2
Total Upstate	127	19	67	18	23	41	86
Albany	......	......	......	......	......	......	......
Allegany	......	......	......	......	......	......	......
Broome	11	4	1	5	1	......	11
Cattaraugus	6	......	6	......	......	3	3
Cayuga	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......
Chemung	10	5	2	......	3	2	8
Chenango	1	1	......	......	......	......	1
Clinton	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......
Cortland	2	......	......	2	......	2	......
Delaware	......	......	......	......	......	......	......
Dutchess	2	1	1	......	......	......	2
Erie	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......
Fulton	23	3	18	......	2	1	22
Genesee	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......
Herkimer	5	1	4	......	......	......	5
Jefferson	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......
Monroe	4	1	......	......	3	1	3
Montgomery	......	......	......	......	......	......	......
Nassau	42	1	26	8	7	24	18
Niagara	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......
Onondaga	1	......	......	......	1	......	1
Ontario	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......
Orleans	2	......	2	......	......	1	1
Oswego	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......
Rensselaer	1	......	......	......	1	......	1
Rockland	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......
Saratoga	1	......	......	......	1	......	1
Schenectady	4	......	3	1	......	3	1
Schoharie	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......
Steuben	2	2	......	......	......	2	......
Suffolk	1	......	1	......	......	......	1
Sullivan	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......
Ulster	4	......	2	2	......	2	2
Warren	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......
Westchester	1	......	1	......	......	......	1
Wyoming	4	......	......	......	4	......	4
Yates	......	......	......	......	......	......	......

Table A-16
FAMILY COURT
Court Findings in Child Protective Proceedings Involving Child Abuse
Reason for Petition Neglect Only
January 1, 1984 through December 31, 1984

Region County	Total	Court Findings at Dispositional Hearing				Court Findings Based on	
		Child Is Abused	Child Is Neglected	Both	Neither	Establishment of Facts Sufficient to Sustain Petition	Consent of All Parties
Total New York State	4,650	42	3,084	21	1,503	2,088	2,562
Total New York City	1,994	10	1,496	14	474	1,122	872
New York	460	3	372	......	85	293	167
Kings	625	1	431	5	188	307	318
Queens	384	3	261	2	118	147	237
Bronx	417	1	354	4	58	328	89
Richmond	108	2	78	3	25	47	61
Total Upstate	2,656	32	1,588	7	1,029	966	1,690
Albany	129	......	129	......	......	125	4
Allegany	19	......	16	......	3	3	16
Broome	48	......	43	......	5	13	35
Cattaraugus	42	......	30	1	11	23	19
Cayuga	2	......	......	......	2	1	1
Chautauqua	63	......	55	......	8	15	48
Chemung	104	11	78	......	15	12	92
Chenango	10	......	4	......	6	1	9
Clinton	15	......	12	......	3	12	3
Columbia	17	......	9	......	8	......	17
Cortland	4	......	3	......	1	1	3
Delaware	13	......	11	......	2	2	11
Dutchess	64	......	44	......	20	15	49
Erie	432	1	237	......	194	150	282
Essex	6	......	4	......	2	......	6
Franklin	19	......	8	......	11	6	13
Fulton	39	......	14	......	25	11	28
Genesee	28	......	19	......	9	12	16
Greene	16	......	4	......	12	4	12
Hamilton	......	......	......	......	......	......	......
Herkimer	6	......	2	......	4	2	4
Jefferson	22	......	8	......	14	1	21
Lewis	9	......	5	......	4	1	8
Livingston	4	......	3	......	1	1	3
Madison	37	......	15	......	22	4	33
Monroe	298	1	168	......	129	102	196
Montgomery	16	1	2	......	13	3	13
Nassau	228	......	140	4	84	95	133
Niagara	79	......	28	......	51	8	71
Oneida	......	......	......	......	......	......	......
Onondaga	230	......	138	......	92	132	98
Ontario	10	......	4	......	6	3	7
Orange	......	......	......	......	......	......	......
Orleans	13	1	6	......	6	5	8
Oswego	1	......	1	......	......	......	1
Otsego	16	......	10	......	6	10	6
Putnam	11	......	1	......	10	2	9
Rensselaer	2	......	1	......	1	......	2
Rockland	42	......	29	1	12	13	29
St. Lawrence	9	1	6	......	2	3	6
Saratoga	52	3	17	......	32	11	41
Schenectady	31	......	27	......	4	6	25
Schoharie	27	......	12	......	15	10	17
Schuyler	5	......	1	......	4	1	4
Seneca	......	......	......	......	......	......	......
Steuben	8	1	4	......	3	3	5
Suffolk	234	11	156	......	67	102	132
Sullivan	10	......	......	......	10	1	9
Tioga	5	......	5	......	......	3	2
Tompkins	1	......	1	......	......	......	1
Ulster	32	......	14	......	18	8	24
Warren	14	......	7	......	7	1	13
Washington	24	......	16	......	8	15	9
Wayne	28	1	10	......	17	10	18
Westchester	59	......	27	......	32	4	55
Wyoming	22	......	4	1	17	......	22
Yates	1	......	......	......	1	......	1

Table A-17 (partial)
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

Region County	Total	Withdrawn	Dismissed	Judgment Suspended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Person Under Private Agency Supervision	Probation	Order of Protection	Transferred to a Court With Criminal Jurisdiction
Total New York State	2,083	106	376	13	95	343	32	5	337	2
Total New York City	897	59	152	3	46	100	26	1	128	......
New York	96	5	8	1	14	17	2	......	2	......
Kings	347	25	67	1	4	26	8	1	63	......
Queens	221	16	51	1	27	25	15	......	30	......
Bronx	197	12	25	......	......	31	......	......	32	......
Richmond	36	1	1	......	1	1	1	......	1	......
Total Upstate	1,186	47	224	10	49	243	6	4	209	2
Albany	32	3	17	......	......	1	......	......	5	......
Allegany	6	1	1	......	1	1	......	......	......	......
Broome	29	......	......	......	4	10	......	......	1	......
Cattaraugus	16	......	1	......	1	5	......	......	1	......
Cayuga	2	......	......	......	......	1	......	......	......	......
Chautauqua	17	......	......	......	1	3	......	......	......	......
Chemung	73	4	......	......	......	43	......	......	......	......
Chenango	8	......	2	......	......	1	2	1	......	......
Clinton	14	1	2	......	......	8	......	......	......	......
Columbia	13	......	3	......	......	4	......	......	......	1
Cortland	4	......	......	......	......	......	......	......	2	......
Delaware	14	......	......	4	1	......	......	......	1	......
Dutchess	55	4	17	......	3	6	......	......	3	......
Erie	173	......	53	......	1	16	......	......	54	......
Essex	4	1	......	......	......	......	......	......	......	......
Franklin	3	1	1	......	......	......	......	......	......	......
Fulton	28	1	8	......	......	9	......	......	1	......
Genesee	4	......	1	......	......	1	......	......	......	......
Greene	6	......	5	......	......	......	......	......	1	......
Hamilton	......	......	......	......	......	......	......	......	......	......
Herkimer	13	1	1	......	2	1	......	......	3	......
Jefferson	9	1	......	......	......	3	1	......	......	......
Lewis	2	......	......	......	......	1	......	......	......	......
Livingston	13	......	......	......	......	9	......	......	1	......
Madison	25	......	1	......	9	2	......	......	1	......
Monroe	164	2	38	......	11	43	......	......	13	......
Montgomery	3	......	......	......	......	......	......	......	......	......
Nassau	46	......	8	......	......	15	......	......	9	......
Niagara	18	......	2	......	......	5	2	......	5	......
Oneida	......	......	......	......	......	......	......	......	......	......
Onondaga	116	7	19	1	1	17	......	......	30	......
Ontario	9	......	2	......	......	2	......	......	5	......
Orange	......	......	......	......	......	......	......	......	......	......
Orleans	9	......	......	......	......	5	......	......	2	......
Oswego	......	......	......	......	......	......	......	......	......	......
Otsego	10	......	......	......	......	......	......	2	......	......
Putnam	3	1	......	......	......	......	1	......	1	......
Rensselaer	4	......	......	......	......	2	......	......	1	......
Rockland	11	2	3	......	......	2	......	......	1	......
St. Lawrence	17	......	5	......	3	6	......	......	2	......
Saratoga	18	......	9	......	......	1	......	......	2	......
Schenectady	8	......	......	......	2	2	......	......	3	......
Schoharie	2	......	1	......	......	......	......	......	1	......
Schuyler	7	......	1	......	......	1	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......
Steuben	20	......	1	......	1	2	......	......	9	1
Suffolk	61	6	9	2	5	10	......	1	18	......
Sullivan	5	1	1	......	......	......	......	......	......	......
Tioga	4	2	......	......	......	......	......	......	1	......
Tompkins	3	......	......	......	......	......	......	......	2	......
Ulster	11	......	2	......	......	4	......	......	1	......
Warren	3	......	2	1	......	......	......	......	......	......
Washington	9	3	1	......	1	......	......	......	......	......
Wayne	34	3	4	2	1	......	......	......	24	......
Westchester	7	......	1	......	......	......	......	......	......	......
Wyoming	19	......	2	......	1	1	......	......	5	......
Yates	2	2	......	......	......	......	......	......	......	......

Table A-17 (concluded)
FAMILY COURT
Dispositions of Child Protective Proceedings Involving Child Abuse
January 1, 1984 through December 31, 1984

Region County	Transferred to Family Court in Another County	Consolidated With Another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child From Home and Placement With relative	Removal of Child From Home and Placement With Non relative	Removal of Child From Home and Placement With Public Social Services Department or Officer	Removal of Child From Home and Placement With Private Institution	Removal of Child From Home and Placement With Other Authorized Agency	Other
Total New York State	12	10	......	......	23	1	696	......	......	32
Total New York City	......	......	......	......	3	......	365	......	......	14
New York	......	......	......	......	......	......	47	......	......	......
Kings	......	......	......	......	1	......	144	......	......	7
Queens	......	......	......	......	......	......	51	......	......	5
Bronx	......	......	......	......	......	......	97	......	......	......
Richmond	......	......	......	......	2	......	26	......	......	2
Total Upstate	12	10	......	......	20	1	331	......	......	18
Albany	......	......	......	......	1	......	5	......	......	......
Allegany	......	......	......	......	......	......	2	......	......	......
Broome	......	......	......	......	......	......	13	......	......	1
Cattaraugus	......	......	......	......	3	......	3	......	......	2
Cayuga	......	......	......	......	......	......	1	......	......	......
Chautauqua	......	......	......	......	......	......	12	......	......	1
Chemung	......	1	......	......	......	......	25	......	......	......
Chenango	......	......	......	......	......	......	2	......	......	......
Clinton	3	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	2	......	3	......	......	......
Cortland	......	......	......	......	2	......	......	......	......	......
Delaware	......	......	......	......	......	......	8	......	......	......
Dutchess	......	......	......	......	......	......	22	......	......	......
Erie	3	......	......	......	......	......	46	......	......	......
Essex	......	......	......	......	......	......	3	......	......	......
Franklin	......	......	......	......	......	......	1	......	......	......
Fulton	......	......	......	......	......	......	9	......	......	......
Genesee	......	......	......	......	......	......	2	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	1	......	4	......	......	......
Jefferson	......	......	......	......	......	......	4	......	......	......
Lewis	......	......	......	......	......	......	1	......	......	......
Livingston	......	......	......	......	......	......	3	......	......	......
Madison	......	2	......	......	......	......	10	......	......	......
Monroe	......	......	......	......	1	......	52	......	......	4
Montgomery	......	......	......	......	......	......	3	......	......	......
Nassau	......	......	......	......	......	......	14	......	......	......
Niagara	......	......	......	......	......	......	4	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......
Onondaga	......	4	......	......	......	......	37	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	2	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......
Otsego	2	......	......	......	1	......	5	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	1	......	......	......	......	......	......	......	......
Rockland	......	......	......	......	1	......	1	......	......	1
St. Lawrence	......	......	......	......	......	......	1	......	......	......
Saratoga	2	......	......	......	......	1	3	......	......	......
Schenectady	......	......	......	......	......	......	1	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	5
Seneca	......	......	......	......	......	......	......	......	......	......
Steuben	1	......	......	......	......	......	5	......	......	......
Suffolk	......	......	......	......	1	......	7	......	......	2
Sullivan	......	2	......	......	......	......	......	......	......	1
Tioga	......	......	......	......	......	......	1	......	......	......
Tompkins	......	......	......	......	......	......	1	......	......	......
Ulster	1	......	......	......	1	......	1	......	......	1
Warren	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	2	......	2	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	......	3	......	3	......	......	......
Wyoming	......	......	......	......	1	......	9	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......

For the purpose of compiling this table, only one disposition per case was considered. More than one disposition was reported for a case. The one deemed to be most significant was used.

Table A-18
FAMILY COURT
Child Protective Petitions Involving Child Abuse
Disposed of between January 1, 1984 and December 31, 1984

Region County	Total	Petition Filed Prior to January 1984	Petition Filed on or After January 1984
Total New York State	2,083	862	1,221
Total New York City	897	466	431
New York	96	43	53
Kings	347	225	122
Queens	221	101	120
Bronx	197	81	116
Richmond	36	16	20
Total Upstate	1,186	396	790
Albany	32	7	25
Allegany	6	......	6
Broome	29	6	23
Cattaraugus	16	9	7
Cayuga	2	2	......
Chautauqua	17	1	16
Chemung	73	20	53
Chenango	8	3	5
Clinton	14	2	12
Columbia	13	5	8
Cortland	4	......	4
Delaware	14	3	11
Dutchess	55	23	32
Erie	173	46	127
Essex	4	1	3
Franklin	3	1	2
Fulton	28	17	11
Genesee	4	1	3
Greene	6	4	2
Hamilton	......	......	......
Herkimer	13	3	10
Jefferson	9	1	8
Lewis	2	......	2
Livingston	13	......	13
Madison	25	5	20
Monroe	164	50	114
Montgomery	3	3	......
Nassau	46	24	22
Niagara	18	8	10
Oneida	......	......	......
Onondaga	116	44	72
Ontario	9	6	3
Orange	......	......	......
Orleans	9	......	9
Oswego	......	......	......
Otsego	10	1	9
Putnam	3	2	1
Rensselaer	4	4	......
Rockland	11	4	7
St. Lawrence	17	3	14
Saratoga	18	6	12
Schenectady	8	1	7
Schoharie	2	......	2
Schuyler	7	6	1
Seneca	......	......	......
Steuben	20	8	12
Suffolk	61	29	32
Sullivan	5	3	2
Tioga	4	4	......
Tompkins	3	......	3
Ulster	11	2	9
Warren	3	3	......
Washington	9	2	7
Wayne	34	16	18
Westchester	7	6	1
Wyoming	19	1	18
Yates	2	......	2

Table A-19
FAMILY COURT
Child Abuse Part Statistics*
January 1, 1984 through December 31, 1984

Region County	Total	Number Disposed Not Indicating Whether Court Has a Child Abuse Part	Courts Having Child Abuse Part: Number of Cases Disposed in Child Abuse Part	Courts Having Child Abuse Part: Number of Cases Disposed in Other Than Child Abuse Part	Courts Having Child Abuse Part: Number Not Indicating Where Disposed	Courts Not Having Child Abuse Part: Number of Cases Disposed
Total New York State	2,020	2	1,018	28	......	972
Total New York City	873	1	796	21	......	55
New York	93	......	88	3	......	2
Kings	341	......	321	12	......	8
Queens	216	1	195	6	......	14
Bronx	192	......	192	......	......	......
Richmond	31	......	......	......	......	31
Total Upstate	1,147	1	222	7	......	917
Albany	32	......	......	......	......	32
Allegany	6	......	......	......	......	6
Broome	29	......	......	......	......	29
Cattaraugus	15	......	......	......	......	15
Cayuga	2	......	......	......	......	2
Chautauqua	17	......	......	......	......	17
Chemung	62	......	......	......	......	62
Chenango	8	......	......	......	......	8
Clinton	14	......	......	......	......	14
Columbia	13	......	......	......	......	13
Cortland	4	......	......	......	......	4
Delaware	14	......	......	......	......	14
Dutchess	55	......	38	1	......	16
Erie	172	......	166	3	......	3
Essex	4	......	......	......	......	4
Franklin	3	......	......	......	......	3
Fulton	28	......	......	......	......	28
Genesee	4	......	......	......	......	4
Greene	6	......	......	......	......	6
Hamilton	......	......	......	......	......	......
Herkimer	13	......	......	......	......	13
Jefferson	9	......	......	......	......	9
Lewis	2	......	......	......	......	2
Livingston	13	......	......	......	......	13
Madison	25	......	......	......	......	25
Monroe	163	......	2	......	......	161
Montgomery	2	......	......	......	......	2
Nassau	42	......	2	......	......	40
Niagara	18	......	......	......	......	18
Oneida	......	......	......	......	......	......
Onondaga	116	......	......	2	......	114
Ontario	9	......	......	......	......	9
Orange	......	......	......	......	......	......
Orleans	8	......	......	......	......	8
Oswego	......	......	......	......	......	......
Otsego	10	......	......	......	......	10
Putnam	3	......	2	1	......	......
Rensselaer	4	......	......	......	......	4
Rockland	10	......	1	......	......	9
St. Lawrence	16	......	......	......	......	16
Saratoga	15	......	......	......	......	15
Schenectady	8	......	......	......	......	8
Schoharie	2	......	......	......	......	2
Schuyler	7	......	......	......	......	7
Seneca	......	......	......	......	......	......
Steuben	19	......	......	......	......	19
Suffolk	50	1	11	......	......	38
Sullivan	5	......	......	......	......	5
Tioga	4	......	......	......	......	4
Tompkins	3	......	......	......	......	3
Ulster	11	......	......	......	......	11
Warren	3	......	......	......	......	3
Washington	9	......	......	......	......	9
Wayne	33	......	......	......	......	33
Westchester	7	......	......	......	......	7
Wyoming	18	......	......	......	......	18
Yates	2	......	......	......	......	2

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*This table includes only cases in which the reason for petition was abuse or both abuse and neglect regardless of court finding

Table A-20
FAMILY COURT
Original Petitions Originally Disposed
Persons in Need of Supervision Proceedings (Boys)*
Detention by Region and County
January 1, 1984 through December 31, 1985

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	4,294	3,554	9	738	71	78	60	88	318	98	24	1	......
Total New York City	1,462	1,111	4	351	30	31	25	35	151	61	18	......	......
New York	173	140	1	33	2	8	2	5	12	2	2	......	......
Kings	632	468	2	164	17	10	14	13	74	26	10	......	......
Queens	355	311	......	44	3	5	5	7	19	3	2	......	......
Bronx	262	162	1	100	8	8	3	9	42	26	4	......	......
Richmond	40	30	......	10	......	......	1	1	4	4	......	......	......
Total Upstate	2,832	2,443	5	387	41	47	35	53	167	37	6	1	......
Albany	165	123	......	42	2	6	5	12	14	3	......	......	......
Allegany	7	7	......	......	......	......	......	......	......	......	......	......	......
Broome	75	67	......	8	1	2	2	1	2	......	......	......	......
Cattaraugus	9	8	1	......	......	......	......	......	......	......	......	......	......
Cayuga	12	11	......	1	......	......	......	......	1	......	......	......	......
Chautauqua	45	43	......	2	......	......	......	1	1	......	......	......	......
Chemung	31	23	......	8	......	1	......	1	5	1	......	......	......
Chenango	14	14	......	......	......	......	......	......	......	......	......	......	......
Clinton	20	19	......	1	......	......	......	1	......	......	......	......	......
Columbia	22	21	......	1	......	......	......	1	......	......	......	......	......
Cortland	16	12	......	4	2	......	......	1	1	......	......	......	......
Delaware	12	12	......	......	......	......	......	......	......	......	......	......	......
Dutchess	94	88	......	6	1	4	......	......	1	......	......	......	......
Erie	340	268	......	72	4	6	5	3	39	14	1	......	......
Essex	5	5	......	......	......	......	......	......	......	......	......	......	......
Franklin	22	20	......	2	......	......	......	2	......	......	......	......	......
Fulton	11	11	......	......	......	......	......	......	......	......	......	......	......
Genesee	12	11	......	1	......	1	......	......	......	......	......	......	......
Greene	12	12	......	......	......	......	......	......	......	......	......	......	......
Hamilton	1	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	23	23	......	......	......	......	......	......	......	......	......	......	......
Jefferson	41	41	......	......	......	......	......	......	......	......	......	......	......
Lewis	4	4	......	......	......	......	......	......	......	......	......	......	......
Livingston	6	5	......	1	......	......	......	......	1	......	......	......	......
Madison	15	10	......	5	1	......	2	2	......	......	......	......	......
Monroe	179	93	......	86	9	8	7	7	51	4	......	......	......
Montgomery	17	16	......	1	......	......	......	1	......	......	......	......	......
Nassau	206	201	......	5	1	2	1	......	......	1	......	......	......
Niagara	63	54	......	9	2	2	1	......	4	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	192	147	1	45	5	3	3	4	24	6	......	......	......
Ontario	13	12	......	1	......	......	......	......	1	......	......	......	......
Orange	70	70	......	......	......	......	......	......	......	......	......	......	......
Orleans	4	4	......	......	......	......	......	......	......	......	......	......	......
Oswego	11	11	......	......	......	......	......	......	......	......	......	......	......
Otsego	8	8	......	......	......	......	......	......	......	......	......	......	......
Putnam	16	14	......	2	......	......	......	1	1	......	......	......	......
Rensselaer	8	7	......	1	......	......	......	......	1	......	......	......	......
Rockland	19	15	1	4	1	......	......	......	1	1	1	......	......
St. Lawrence	11	11	......	......	......	......	......	......	......	......	......	......	......
Saratoga	44	40	......	4	......	2	1	......	......	1	......	......	......
Schenectady	14	10	......	4	......	2	......	......	2	......	......	......	......
Schoharie	5	4	1	1	......	1	......	......	......	......	......	......	......
Schuyler	4	3	......	1	1	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	43	36	......	7	1	1	3	2	......	......	......	......	......
Suffolk	532	500	......	32	5	3	1	9	11	2	1	......	......
Sullivan	17	14	......	3	......	......	1	1	1	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......	......	......
Tompkins	15	13	......	2	1	......	......	......	1	......	......	......	......
Ulster	52	52	......	......	......	......	......	......	......	......	......	......	......
Warren	20	17	......	3	2	......	......	1	......	......	......	......	......
Washington	64	60	1	3	2	1	......	......	......	......	......	......	......
Wayne	36	33	......	3	......	2	1	......	......	......	......	......	......
Westchester	142	126	......	16	......	......	2	2	4	4	3	1	......
Wyoming	13	13	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......

*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 7 such proceedings statewide.

Table A-21
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls)*
Detention by Region and County
January 1, 1984 through December 31, 1984

			Detained		Length of Detention After Petition								
Region County	Total*	Not Detained	Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	4,053	3,256	14	792	100	67	66	110	336	92	21	......	......
Total New York City	1,520	1,131	3	387	41	24	27	60	161	58	16	......	......
New York	211	163	1	47	6	4	4	14	14	5	......	......	......
Kings	653	481	1	171	20	10	10	28	73	20	10	......	......
Queens	341	281	1	60	2	4	5	7	30	11	1	......	......
Bronx	250	160	......	90	11	5	5	8	38	18	5	......	......
Richmond	65	46	......	19	2	1	3	3	6	4	......	......	......
Total Upstate	2,533	2,125	11	405	59	43	39	50	175	34	5	......	......
Albany	131	94	......	37	1	1	2	14	16	3	......	......	......
Allegany	12	10	......	2	......	1	......	1	......	......	......	......	......
Broome	66	52	......	14	2	2	2	2	6	......	......	......	......
Cattaraugus	9	8	......	1	......	......	......	......	......	1	......	......	......
Cayuga	11	11	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	27	27	......	......	......	......	......	......	......	......	......	......	......
Chemung	27	18	1	8	2	......	2	......	4	......	......	......	......
Chenango	5	5	......	......	......	......	......	......	......	......	......	......	......
Clinton	13	12	......	1	1	......	......	......	......	......	......	......	......
Columbia	16	15	......	1	......	......	......	......	1	......	......	......	......
Cortland	10	8	......	2	1	......	......	......	1	......	......	......	......
Delaware	7	7	......	......	......	......	......	......	......	......	......	......	......
Dutchess	81	74	......	7	3	2	1	1	......	......	......	......	......
Erie	330	262	......	68	7	1	5	3	39	13	......	......	......
Essex	8	7	......	1	......	......	1	......	......	......	......	......	......
Franklin	14	14	......	......	......	......	......	......	......	......	......	......	......
Fulton	15	13	1	2	1	1	......	......	......	......	......	......	......
Genesee	5	5	......	......	......	......	......	......	......	......	......	......	......
Greene	12	12	......	......	......	......	......	......	......	......	......	......	......
Hamilton	3	3	......	......	......	......	......	......	......	......	......	......	......
Herkimer	13	13	......	......	......	......	......	......	......	......	......	......	......
Jefferson	42	42	......	......	......	......	......	......	......	......	......	......	......
Lewis	5	4	......	1	......	......	1	......	......	......	......	......	......
Livingston	1	1	......	......	......	......	......	......	......	......	......	......	......
Madison	14	12	......	2	1	1	......	......	......	......	......	......	......
Monroe	204	113	......	91	17	12	13	7	35	7	......	......	......
Montgomery	18	15	1	2	......	1	......	......	1	......	......	......	......
Nassau	172	171	......	1	......	1	......	......	......	......	......	......	......
Niagara	41	32	......	9	4	3	1	......	......	1	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	200	135	......	65	6	6	4	9	36	2	2	......	......
Ontario	9	7	......	2	2	......	......	......	......	......	......	......	......
Orange	72	72	......	......	......	......	......	......	......	......	......	......	......
Orleans	6	6	......	......	......	......	......	......	......	......	......	......	......
Oswego	4	4	......	......	......	......	......	......	......	......	......	......	......
Otsego	4	4	......	......	......	......	......	......	......	......	......	......	......
Putnam	7	7	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	5	5	......	......	......	......	......	......	......	......	......	......	......
Rockland	22	13	......	9	......	......	......	......	8	1	......	......	......
St. Lawrence	7	7	......	......	......	......	......	......	......	......	......	......	......
Saratoga	37	31	......	6	......	1	3	1	1	......	......	......	......
Schenectady	15	13	......	2	......	......	......	......	2	......	......	......	......
Schoharie	4	3	1	1	......	......	......	1	......	......	......	......	......
Schuyler	6	6	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	27	20	......	7	1	4	......	2	......	......	......	......	......
Suffolk	482	454	1	28	5	2	3	5	12	1	......	......	......
Sullivan	7	7	......	......	......	......	......	......	......	......	......	......	......
Tioga	1	1	......	......	......	......	......	......	......	......	......	......	......
Tompkins	17	13	1	4	2	......	1	......	1	......	......	......	......
Ulster	55	55	......	......	......	......	......	......	......	......	......	......	......
Warren	13	10	......	3	......	......	......	......	3	......	......	......	......
Washington	20	20	......	......	......	......	......	......	......	......	......	......	......
Wayne	31	21	4	9	1	4	......	2	1	1	......	......	......
Westchester	159	140	1	19	2	......	......	2	8	4	3	......	......
Wyoming	11	11	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......

*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 9 such proceedings statewide.

Table A-22 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	4,141	14	......	21	394	320	611	482	688	20	45	......
Total New York City	1,451	7	......	14	306	180	166	256	323	1	1	......
New York	172	......	......	3	36	28	8	23	57	......	1	......
Kings	625	2	......	6	136	73	99	98	112	1	......	......
Queens	355	5	......	4	118	35	45	23	86	......	......	......
Bronx	259	......	......	1	9	42	3	103	64	......	......	......
Richmond	40	......	......	......	7	2	11	9	4	......	......	......
Total Upstate	2,690	7	......	7	88	140	445	226	365	19	44	......
Albany	152	......	......	......	......	1	45	25	10	2	16	......
Allegany	7	......	......	......	......	......	......	1	......	......	......	......
Broome	75	......	......	......	......	......	4	9	2	......	......	......
Cattaraugus	9	......	......	......	......	1	2	2	......	......	......	......
Cayuga	12	......	......	......	......	......	......	......	1	1	......	......
Chautauqua	42	1	......	......	1	3	13	3	2	......	......	......
Chemung	31	......	......	......	1	......	1	......	2	......	4	......
Chenango	14	......	......	......	......	......	1	......	......	......	......	......
Clinton	18	......	......	......	......	......	......	......	9	......	......	......
Columbia	21	......	......	......	......	......	1	......	4	......	2	......
Cortland	15	......	......	......	2	......	3	1	......	2	......	......
Delaware	12	......	......	......	1	1	......	1	......	......	2	......
Dutchess	92	1	......	......	12	......	9	4	15	......	7	......
Erie	311	4	......	2	21	50	89	16	......	......	......	......
Essex	5	......	......	......	......	......	......	......	1	1	......	......
Franklin	22	......	......	......	......	......	1	4	4	......	......	......
Fulton	11	......	......	......	......	......	4	......	2	......	......	......
Genesee	11	......	......	......	......	1	1	......	......	......	......	......
Greene	12	......	......	......	......	2	3	......	1	......	......	......
Hamilton	1	......	......	......	......	......	......	......	......	......	......	......
Herkimer	23	......	......	1	......	2	......	2	8	......	......	......
Jefferson	38	......	......	......	......	......	2	2	4	......	......	......
Lewis	3	......	......	......	......	......	......	......	......	......	......	......
Livingston	6	......	......	......	......	......	1	2	......	......	......	......
Madison	15	......	......	......	......	......	2	......	3	......	......	......
Monroe	160	......	......	......	......	9	24	20	23	3	......	......
Montgomery	14	......	......	......	......	......	7	1	1	......	1	......
Nassau	204	......	......	1	3	5	5	14	20	1	......	......
Niagara	59	......	......	......	2	......	1	1	4	1	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	186	......	......	......	......	34	54	18	11	......	......	......
Ontario	13	......	......	......	......	......	2	......	......	......	......	......
Orange	66	......	......	......	1	......	15	16	5	......	......	......
Orleans	4	......	......	1	......	......	......	......	......	......	......	......
Oswego	11	......	......	......	......	......	......	......	1	......	1	......
Otsego	8	......	......	......	......	......	......	......	......	......	......	......
Putnam	16	......	......	......	......	......	8	1	2	......	......	......
Rensselaer	8	......	......	......	......	......	4	1	1	......	......	......
Rockland	19	......	......	......	......	1	2	......	5	......	......	......
St. Lawrence	11	......	......	......	......	1	......	......	1	......	1	......
Saratoga	42	......	......	......	1	......	19	4	1	2	......	......
Schenectady	12	......	......	......	......	......	1	......	1	......	......	......
Schoharie	5	......	......	......	1	......	......	......	......	......	......	......
Schuyler	4	......	......	......	1	1	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	42	......	......	......	......	3	5	3	4	1	5	......
Suffolk	512	......	......	1	24	19	76	54	143	4	......	......
Sullivan	17	......	......	......	......	......	......	......	3	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......	......
Tompkins	15	1	......	......	......	1	2	......	7	......	......	......
Ulster	50	......	......	......	......	......	4	1	14	......	......	......
Warren	13	......	......	......	1	......	3	......	......	......	......	......
Washington	51	......	......	......	......	2	3	......	5	......	......	......
Wayne	35	......	......	......	......	2	9	8	4	......	......	......
Westchester	142	......	......	1	16	1	14	11	40	1	5	......
Wyoming	13	......	......	......	......	......	5	1	1	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-22 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Boys Only)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	23	106	740	16	584	49	11	......	......	17
Total New York City	......	2	2	47	2	130	9	1	......	......	4
New York	......	......	2	5	2	6	......	1	......	......	......
Kings	......	2	......	15	......	71	6	......	......	......	4
Queens	......	......	......	19	......	18	2	......	......	......	......
Bronx	......	......	......	6	......	31	......	......	......	......	......
Richmond	......	......	......	2	......	4	1	......	......	......	......
Total Upstate	......	21	104	693	14	454	40	10	......	......	13
Albany	......	......	7	19	1	23	1	2	......	......	......
Allegany	......	......	......	......	3	3	......	......	......	......	......
Broome	......	......	......	28	......	30	......	1	......	......	1
Cattaraugus	......	......	......	......	......	4	......	......	......	......	......
Cayuga	......	1	1	4	......	1	3	......	......	......	......
Chautauqua	......	......	......	12	......	7	......	......	......	......	......
Chemung	......	......	5	7	......	10	......	1	......	......	......
Chenango	......	......	......	8	......	5	......	......	......	......	......
Clinton	......	......	1	3	......	1	4	......	......	......	......
Columbia	......	......	3	7	......	4	......	......	......	......	......
Cortland	......	......	1	2	1	1	2	......	......	......	......
Delaware	......	4	......	3	......	......	......	......	......	......	......
Dutchess	......	2	2	29	......	11	......	......	......	......	......
Erie	......	......	9	36	3	69	12	......	......	......	......
Essex	......	......	1	......	......	......	2	......	......	......	......
Franklin	......	......	......	6	......	6	1	......	......	......	......
Fulton	......	......	......	......	......	5	......	......	......	......	......
Genesee	......	......	......	1	......	7	......	......	......	......	......
Greene	......	1	......	3	1	......	......	1	......	......	1
Hamilton	......	......	......	1	......	......	......	......	......	......	......
Herkimer	......	......	1	4	......	4	1	......	......	......	......
Jefferson	......	1	1	20	......	8	......	......	......	......	......
Lewis	......	......	......	3	......	......	......	......	......	......	......
Livingston	......	......	......	1	......	2	......	......	......	......	......
Madison	......	......	......	......	......	10	......	......	......	......	......
Monroe	......	......	15	15	......	50	1	......	......	......	......
Montgomery	......	......	......	1	......	3	......	......	......	......	......
Nassau	......	......	20	121	......	2	4	......	......	......	8
Niagara	......	2	5	17	......	23	2	1	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	6	24	1	38	......	......	......	......	......
Ontario	......	......	1	6	......	4	......	......	......	......	......
Orange	......	2	......	19	......	8	......	......	......	......	......
Orleans	......	......	......	1	......	2	......	......	......	......	......
Oswego	......	......	......	6	......	3	......	......	......	......	......
Otsego	......	......	......	1	......	7	......	......	......	......	......
Putnam	......	2	......	1	......	2	......	......	......	......	......
Rensselaer	......	......	......	1	......	1	......	......	......	......	......
Rockland	......	......	......	8	......	3	......	......	......	......	......
St. Lawrence	......	......	......	4	1	3	......	......	......	......	......
Saratoga	......	......	......	4	......	11	......	......	......	......	......
Schenectady	......	......	......	4	......	4	......	1	......	......	1
Schoharie	......	......	......	......	......	3	1	......	......	......	......
Schuyler	......	......	......	......	......	......	2	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	1	10	......	10	......	......	......	......	......
Suffolk	......	......	11	157	1	19	2	......	......	......	1
Sullivan	......	......	1	7	......	5	1	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	1	1	......	2	......	......	......	......	......
Ulster	......	5	......	16	......	9	1	......	......	......	......
Warren	......	......	1	3	1	3	......	1	......	......	......
Washington	......	1	6	22	......	11	......	1	......	......	......
Wayne	......	......	3	5	......	4	......	......	......	......	......
Westchester	......	......	1	38	1	12	......	......	......	......	1
Wyoming	......	......	......	4	......	1	......	1	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-23 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	3,905	21	......	24	456	298	624	461	714	10	23	......
Total New York City	1,509	5	......	15	359	165	208	248	326	......	2	......
New York	211	......	......	3	57	41	9	22	66	......	1	......
Kings	647	2	......	6	159	72	143	87	102	......	......	......
Queens	341	3	......	5	120	18	34	28	81	......	1	......
Bronx	245	......	......	......	11	26	5	101	68	......	......	......
Richmond	65	......	......	1	12	8	17	10	9	......	......	......
Total Upstate	2,396	16	......	9	97	133	416	213	388	10	21	......
Albany	117	......	......	......	......	......	44	20	9	......	3	......
Allegany	12	......	......	......	......	......	......	......	1	......	......	......
Broome	66	......	......	......	3	......	4	9	1	......	......	......
Cattaraugus	8	......	......	......	......	2	2	1	1	......	......	......
Cayuga	11	......	......	......	1	......	1	1	......	......	......	......
Chautauqua	24	......	......	......	2	2	10	......	......	......	......	......
Chemung	27	......	......	......	......	1	......	......	3	......	4	......
Chenango	5	......	......	......	......	......	1	......	......	......	......	......
Clinton	11	......	......	......	......	......	1	......	3	......	......	......
Columbia	14	......	......	......	1	......	1	1	4	......	1	......
Cortland	10	......	......	......	......	1	......	......	......	2	......	......
Delaware	7	1	......	......	1	......	......	......	1	1	......	......
Dutchess	79	......	......	......	6	......	14	2	11	......	3	......
Erie	301	5	......	5	32	44	95	24	......	1	......	......
Essex	8	......	......	......	......	1	1	......	1	1	......	......
Franklin	14	......	......	......	......	......	2	1	2	......	......	......
Fulton	15	......	......	......	......	......	2	......	3	......	......	......
Genesee	5	......	......	......	......	......	......	......	......	......	......	......
Greene	12	......	......	......	......	......	2	......	2	......	......	......
Hamilton	3	3	......	......	......	......	......	......	......	......	......	......
Herkimer	13	......	......	......	1	......	......	......	7	......	......	......
Jefferson	38	......	......	......	......	......	1	1	5	......	......	......
Lewis	5	......	......	......	......	......	......	......	......	......	......	......
Livingston	1	......	......	......	......	......	1	......	......	......	......	......
Madison	14	1	......	......	1	1	1	......	1	......	......	......
Monroe	182	......	......	......	......	13	18	22	50	......	......	......
Montgomery	14	......	......	......	......	......	2	1	3	......	......	......
Nassau	172	......	......	......	6	6	5	15	14	......	3	......
Niagara	39	......	......	1	3	1	......	......	6	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	193	......	......	......	......	22	46	30	25	......	1	......
Ontario	9	......	......	......	1	......	2	1	......	......	......	......
Orange	67	......	......	1	......	1	10	10	6	1	......	......
Orleans	6	......	......	......	......	1	1	......	......	......	......	......
Oswego	4	......	......	......	......	......	......	......	......	......	......	......
Otsego	4	......	......	......	......	......	......	......	......	......	......	......
Putnam	7	......	......	......	2	......	1	......	1	......	......	......
Rensselaer	5	......	......	......	......	......	5	......	......	......	......	......
Rockland	21	......	......	......	......	1	1	1	......	......	......	......
St. Lawrence	7	......	......	......	......	......	......	......	......	1	......	......
Saratoga	37	......	......	1	3	2	13	2	3	......	......	......
Schen ady	12	......	......	......	1	......	1	1	4	......	......	......
Scho	4	......	......	......	......	1	......	......	1	......	......	......
Schuyk	6	......	......	......	2	......	2	1	1	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	27	......	......	......	......	......	7	3	4	2	......	......
Suffolk	457	2	......	1	22	24	84	45	140	1	......	......
Sullivan	7	......	......	......	......	......	......	......	2	......	......	......
Tioga	1	......	......	......	......	......	......	......	......	......	......	......
Tompkins	16	......	......	......	......	1	6	2	1	......	......	......
Ulster	52	......	......	......	......	......	9	2	16	......	......	......
Warren	12	......	......	......	......	......	......	......	......	......	......	......
Washington	15	1	......	......	......	......	1	......	1	......	......	......
Wayne	30	1	......	......	......	4	4	5	4	......	......	......
Westchester	159	2	......	......	9	4	10	11	50	......	6	......
Wyoming	11	......	......	......	......	......	5	1	1	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-23 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Persons in Need of Supervision Proceedings (Girls Only)
Nature of Dispositions by Region and County
January 1, 1983 through December 31, 1983

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	15	71	588	18	526	36	4	......	......	16
Total New York City	......	......	......	65	3	106	6	......	......	......	1
New York	......	......	......	4	1	7	......	......	......	......	......
Kings	......	......	......	28	2	43	2	......	......	......	1
Queens	......	......	......	27	......	20	4	......	......	......	......
Bronx	......	......	......	4	......	30	......	......	......	......	......
Richmond	......	......	......	2	......	6	......	......	......	......	......
Total Upstate	......	15	71	523	15	420	30	4	......	......	15
Albany	......	......	2	7	2	29	1	......	......	......	......
Allegany	......	......	......	3	2	5	......	......	......	......	1
Broome	......	......	......	17	......	32	......	......	......	......	......
Cattaraugus	......	......	......	......	......	2	......	......	......	......	......
Cayuga	......	1	1	4	......	1	1	......	......	......	......
Chautauqua	......	......	......	5	......	5	......	......	......	......	......
Chemung	......	......	5	4	......	7	......	3	......	......	......
Chenango	......	......	......	3	1	......	......	......	......	......	......
Clinton	......	......	......	1	......	6	......	......	......	......	......
Columbia	......	......	......	4	......	2	......	......	......	......	......
Cortland	......	......	3	1	1	1	......	......	......	......	1
Delaware	......	......	2	......	......	1	......	......	......	......	......
Dutchess	......	1	1	27	......	13	1	......	......	......	......
Erie	......	......	3	45	......	36	10	......	......	......	1
Essex	......	......	......	......	......	4	......	......	......	......	......
Franklin	......	......	......	5	......	4	......	......	......	......	......
Fulton	......	......	......	2	......	8	......	......	......	......	......
Genesee	......	......	......	1	......	4	......	......	......	......	......
Greene	......	......	......	4	......	3	1	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	2	......	3	......	......	......	......	......
Jefferson	......	......	2	20	......	9	......	......	......	......	......
Lewis	......	1	......	3	......	1	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	4	3	......	2	......	......	......	......	......
Monroe	......	......	9	23	......	47	......	......	......	......	......
Montgomery	......	......	1	2	......	5	......	......	......	......	......
Nassau	......	......	9	95	1	1	6	......	......	......	11
Niagara	......	1	2	4	......	16	5	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	6	17	2	44	......	......	......	......	......
Ontario	......	......	......	2	1	2	......	......	......	......	......
Orange	......	2	......	23	1	12	......	......	......	......	......
Orleans	......	......	......	......	......	4	......	......	......	......	......
Oswego	......	......	1	2	......	1	......	......	......	......	......
Otsego	......	......	......	1	......	2	1	......	......	......	......
Putnam	......	......	......	2	......	1	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	10	......	7	1	......	......	......	......
St. Lawrence	......	......	......	......	......	6	......	......	......	......	......
Saratoga	......	......	......	......	......	12	......	1	......	......	......
Schenectady	......	......	......	2	......	3	......	......	......	......	......
Schoharie	......	......	1	......	......	1	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	3	1	7	......	......	......	......	......
Suffolk	......	......	5	111	1	18	3	......	......	......	......
Sullivan	......	......	1	1	......	3	......	......	......	......	......
Tioga	......	......	......	1	......	......	......	......	......	......	......
Tompkins	......	......	1	......	......	4	......	......	......	......	1
Ulster	......	8	1	10	......	6	......	......	......	......	......
Warren	......	......	2	3	......	7	......	......	......	......	......
Washington	......	......	6	4	......	2	......	......	......	......	......
Wayne	......	1	1	2	1	7	......	......	......	......	......
Westchester	......	......	2	42	1	22	......	......	......	......	......
Wyoming	......	......	......	2	......	2	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-24
FAMILY COURT
Original Delinquency Petitions Disposed
Reasons for Juvenile Delinquency Proceedings (Other than Designated Felony) by Region
January 1, 1984 through December 31, 1984

Reasons*	New York City	Upstate	Total New York State
Homicide	15	4	19
Kidnapping	19	6	25
Rape	32	11	43
Other Sex Offenses	74	141	215
Robbery	1,057	177	1,234
Assault or Related Off.	769	713	1,482
Crim. Sale Control Subst.	67	23	90
Crim. Poss. Control Subst.	114	18	132
Other Drug Offense	18	9	27
Crim. Poss. of Weapon	470	99	569
Burglary or Related Off.	732	1,498	2,230
Criminal Trespass	457	267	724
Arson	20	69	89
Grand Larceny - Auto	268	50	318
Grand Larceny	1,178	501	1,679
Petit Larceny	564	1,515	2,079
Crim. Poss. of Stolen Prop.	1,388	408	1,796
Other Theft	252	87	339
Criminal Mischief	773	838	1,611
Gambling	3	3	6
Prostitution	2	19	21
Other Crimes	401	765	1,166
Total	8,673	7,221	15,894

*Due to the reporting of multiple reasons for some petitions, the number of reasons exceeds the number of petitions.

Table A-25
FAMILY COURT
Original Delinquency Petitions Disposed
Reasons for Juvenile Delinquency Proceedings (Designated Felony Only) by Region
January 1, 1984 through December 31, 1984

Reasons*	New York City	Upstate	Total New York State
Murder 1	....	....	....
Murder 2	1	....	1
Kidnapping 1	2	....	2
Arson 1	....	....	....
Manslaughter 1	....	1	1
Rape 1	24	10	34
Sodomy 1	19	34	53
Kidnapping 2	1	1	2
Arson 2	3	7	10
Robbery 1	131	34	165
Assault 1	41	12	53
Attempt-Murder 1	....	....	....
Attempt-Murder 2	1	....	1
Attempt-Kidnapping	....	....	....
Total	223	99	322

*Due to the reporting of multiple reasons for some petitions, the number of reasons exceeds the number of petitions.

Table A-26
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Boys)*
Detention by Region and County
January 1, 1984 through December 31, 1984

			Detained		Length of Detention After Petition								
Region County	Total*	Not Detained	Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	9,108	7,445	149	1,625	392	227	153	176	515	110	51	1	......
Total New York City	3,911	3,101	51	799	217	88	77	92	217	71	36	1	......
New York	1,021	727	41	285	62	35	29	36	91	21	10	1	......
Kings	1,508	1,261	6	246	96	19	17	17	57	22	18	......	......
Queens	839	697	2	142	33	21	18	20	28	18	4	......	......
Bronx	446	330	1	115	22	12	13	17	40	9	2	......	......
Richmond	97	86	1	11	4	1	......	2	1	1	2	......	......
Total Upstate	5,197	4,344	98	826	175	139	76	84	298	39	15	......	......
Albany	251	205	1	46	5	12	2	9	17	1	......	......	......
Allegany	5	4	......	1	1	......	......	......	......	......	......	......	......
Broome	155	141	1	13	1	1	2	2	7	......	......	......	......
Cattaraugus	29	27	......	2	1	......	......	......	......	......	1	......	......
Cayuga	27	26	1	1	......	......	1	......	......	......	......	......	......
Chautauqua	99	97	......	2	......	......	1	......	1	......	......	......	......
Chemung	87	71	1	15	......	2	2	2	9	......	......	......	......
Chenango	19	18	1	......	......	......	......	......	......	......	......	......	......
Clinton	22	15	2	7	2	......	2	3	......	......	......	......	......
Columbia	22	19	1	3	1	......	1	1	......	......	......	......	......
Cortland	19	14	......	5	4	......	......	......	1	......	......	......	......
Delaware	10	9	......	1	......	......	1	......	......	......	......	......	......
Dutchess	157	148	......	9	......	1	1	1	6	......	......	......	......
Erie	290	228	4	60	6	5	1	4	29	15	......	......	......
Essex	11	11	......	......	......	......	......	......	......	......	......	......	......
Franklin	12	11	......	1	......	......	......	1	......	......	......	......	......
Fulton	20	18	2	2	1	......	......	......	1	......	......	......	......
Genesee	19	19	......	......	......	......	......	......	......	......	......	......	......
Greene	19	15	1	4	......	......	......	......	4	......	......	......	......
Hamilton	2	2	......	......	......	......	......	......	......	......	......	......	......
Herkimer	21	20	......	1	1	......	......	......	......	......	......	......	......
Jefferson	83	71	4	12	5	6	......	......	1	......	......	......	......
Lewis	5	5	......	......	......	......	......	......	......	......	......	......	......
Livingston	8	6	......	2	......	......	......	......	2	......	......	......	......
Madison	24	19	1	5	1	2	1	1	......	......	......	......	......
Monroe	389	241	5	148	37	34	17	21	36	......	3	......	......
Montgomery	24	23	......	1	1	......	......	......	......	......	......	......	......
Nassau	585	454	7	127	44	28	11	9	29	4	2	......	......
Niagara	107	99	......	8	4	2	......	1	1	......	......	......	......
Oneida	1	1	......	......	......	......	......	......	......	......	......	......	......
Onondaga	459	308	42	142	16	17	17	10	68	13	1	......	......
Ontario	10	10	......	......	......	......	......	......	......	......	......	......	......
Orange	144	144	......	......	......	......	......	......	......	......	......	......	......
Orleans	7	4	......	3	......	......	......	......	3	......	......	......	......
Oswego	4	4	......	......	......	......	......	......	......	......	......	......	......
Otsego	10	8	1	1	......	......	......	......	1	......	......	......	......
Putnam	69	55	......	14	1	......	......	7	5	1	......	......	......
Rensselaer	5	3	1	2	......	......	......	......	2	......	......	......	......
Rockland	83	73	1	9	......	......	2	......	6	......	1	......	......
St. Lawrence	21	20	......	1	......	......	......	......	1	......	......	......	......
Saratoga	159	142	1	16	7	1	5	......	3	......	......	......	......
Schenectady	27	20	1	6	1	3	......	......	2	......	......	......	......
Schoharie	9	8	......	1	......	......	......	1	......	......	......	......	......
Schuyler	6	5	1	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	52	42	1	10	1	2	1	......	6	......	......	......	......
Suffolk	1,150	1,056	2	94	25	9	4	7	45	2	2	......	......
Sullivan	24	18	......	6	1	2	2	1	......	......	......	......	......
Tioga	1	1	......	......	......	......	......	......	......	......	......	......	......
Tompkins	12	8	2	4	......	......	......	1	3	......	......	......	......
Ulster	84	84	......	......	......	......	......	......	......	......	......	......	......
Warren	32	22	......	10	1	7	......	......	2	......	......	......	......
Washington	30	26	4	3	2	......	......	......	1	......	......	......	......
Wayne	57	47	3	9	3	2	2	......	2	......	......	......	......
Westchester	200	180	6	18	2	2	......	2	4	3	5	......	......
Wyoming	20	19	......	1	......	1	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......

*Figures in column 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 111 such proceedings statewide.

Table A-27
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquency Proceedings (Girls)*
Detention by Region and County
January 1, 1984 through December 31, 1984

			Detained		Length of Detention After Petition								
Region County	Total*	Not Detained	Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	1,374	1,142	22	225	70	34	15	28	62	8	8	......	......
Total New York City	456	372	8	81	32	10	4	2	24	3	6	......	......
New York	124	90	7	31	16	3	2	1	7	1	1	......	......
Kings	177	158	1	19	7	4	......	......	3	1	4	......	......
Queens	96	83	......	13	3	1	1	1	6	1	......	......	......
Bronx	36	19	......	17	6	2	1	......	7	......	1	......	......
Richmond	23	22	......	1	......	......	......	......	1	......	......	......	......
Total Upstate	918	770	14	144	38	24	11	26	38	5	2	......	......
Albany	66	61	......	5	1	......	......	3	1	......	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......	......
Broome	27	25	......	2	......	......	......	2	......	......	......	......	......
Cattaraugus	1	1	......	......	......	......	......	......	......	......	......	......	......
Cayuga	9	8	......	1	1	......	......	......	......	......	......	......	......
Chautauqua	4	4	......	......	......	......	......	......	......	......	......	......	......
Chemung	36	33	......	3	......	3	......	......	......	......	......	......	......
Chenango	2	2	......	......	......	......	......	......	......	......	......	......	......
Clinton	1	1	......	......	......	......	......	......	......	......	......	......	......
Columbia	4	4	......	......	......	......	......	......	......	......	......	......	......
Cortland	3	1	1	2	1	......	......	1	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......	......	......
Dutchess	23	21	1	1	......	......	......	......	1	......	......	......	......
Erie	57	50	......	7	1	1	......	......	5	......	......	......	......
Essex	3	3	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	4	3	......	1	......	......	......	1	......	......	......	......	......
Genesee	1	1	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	1	1	......	......	......	......	......	......	......	......	......	......	......
Jefferson	13	12	......	1	1	......	......	......	......	......	......	......	......
Lewis	1	1	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......	......	......
Monroe	81	52	......	29	8	10	1	2	7	1	......	......	......
Montgomery	1	1	......	......	......	......	......	......	......	......	......	......	......
Nassau	141	110	2	31	17	3	2	2	6	1	......	......	......
Niagara	7	6	......	1	......	......	......	1	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	64	43	4	20	3	1	5	4	6	......	1	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......	......	......
Orange	34	32	1	1	......	......	......	1	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	2	2	......	......	......	......	......	......	......	......	......	......	......
Putnam	5	5	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	1	1	......	......	......	......	......	......	......	......	......	......	......
Rockland	10	5	......	5	......	2	......	1	1	1	......	......	......
St. Lawrence	3	3	......	......	......	......	......	......	......	......	......	......	......
Saratoga	17	17	......	......	......	......	......	......	......	......	......	......	......
Schenectady	7	6	......	1	......	......	......	1	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	2	2	......	......	......	......	......	......	......	......	......	......	......
Suffolk	209	181	1	28	4	4	2	6	10	1	1	......	......
Sullivan	4	4	......	......	......	......	......	......	......	......	......	......	......
Tioga	3	2	......	1	1	......	......	......	......	......	......	......	......
Tompkins	2	2	......	......	......	......	......	......	......	......	......	......	......
Ulster	15	15	......	......	......	......	......	......	......	......	......	......	......
Warren	1	1	......	......	......	......	......	......	......	......	......	......	......
Washington	6	6	......	......	......	......	......	......	......	......	......	......	......
Wayne	20	15	4	4	......	......	1	1	1	1	......	......	......
Westchester	26	26	......	......	......	......	......	......	......	......	......	......	......
Wyoming	1	1	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......	......

*Figures in columns 2, 3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 15 such proceedings statewide.

Table A-28 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Designated Felony Only) Proceedings (Boys)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	330	20	......	2	6	6	7	59	46	3	18	......
Total New York City	195	19	......	2	6	1	5	37	34	......	1	......
New York	41	9	......	......	......	1	......	4	3	......	......	......
Kings	67	3	......	......	3	......	5	17	20	......	......	......
Queens	26	3	......	1	2	......	......	2	8	......	1	......
Bronx	61	4	......	1	1	......	......	14	3	......	......	......
Richmond	......	......	......	......	......	......	......	......	......	......	......	......
Total Upstate	135	1	......	......	......	5	2	22	12	3	17	......
Albany	9	......	......	......	......	......	1	2	1	......	......	......
Allegany	2	......	......	......	......	1	......	1	......	......	......	......
Broome	6	......	......	......	......	1	......	1	1	......	......	......
Cattaraugus	7	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......	......
Chemung	2	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......	......
Clinton	1	......	......	......	......	......	......	......	1	......	......	......
Columbia	3	......	......	......	......	1	......	......	......	......	......	......
Cortland	1	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......	......
Dutchess	14	......	......	......	......	1	......	......	2	......	9	......
Erie	5	......	......	......	......	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	1	......	......	......	......	......	......	......	......	......	......	......
Jefferson	1	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......	......
Monroe	13	......	......	......	......	......	1	1	......	1	......	......
Montgomery	2	1	......	......	......	......	......	......	......	......	......	......
Nassau	22	......	......	......	......	......	......	7	1	2	6	......
Niagara	1	......	......	......	......	......	......	......	......	......	......	......
Oneida	1	......	......	......	......	......	......	......	1	......	......	......
Onondaga	10	......	......	......	......	......	......	6	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	2	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......	......
Rockland	1	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......	......
Saratoga	1	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......	......
Suffolk	23	......	......	......	......	1	......	4	4	......	1	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......	......
Ulster	2	......	......	......	......	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......	......
Wayne	2	......	......	......	......	......	......	......	1	......	1	......
Westchester	2	......	......	......	......	......	......	......	......	......	......	......
Wyoming	1	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-28 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Designated Felony Only) Proceedings (Boys)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	6	1	66	......	8	20	49	1	7	5
Total New York City	......	4	......	31	......	2	14	33	1	3	2
New York	......	......	......	3	......	......	3	17	......	......	1
Kings	......	4	......	8	......	1	2	3	......	......	1
Queens	......	......	......	3	......	......	2	3	......	1	......
Bronx	......	......	......	17	......	1	7	10	1	2	......
Richmond	......	......	......	......	......	......	......	......	......	......	......
Total Upstate	......	2	1	35	......	6	6	16	......	4	3
Albany	......	......	1	1	......	......	......	3	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	......	......	......	......	......	2	......	......	1
Cattaraugus	......	1	......	5	......	1	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	2	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	1	......	......	......	......	......
Cortland	......	......	......	1	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......
Dutchess	......	......	......	......	......	......	......	1	......	1	......
Erie	......	......	......	2	......	1	......	2	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	1	......
Fulton	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	1	......	......	......	......
Jefferson	......	......	......	1	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......
Monroe	......	......	......	5	......	......	......	3	......	......	2
Montgomery	......	......	......	1	......	......	......	......	......	......	......
Nassau	......	......	......	1	......	......	3	1	......	1	......
Niagara	......	......	......	......	......	......	......	......	......	1	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	1	......	3	......	......	......	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	2	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	1	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	1	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......
Suffolk	......	......	......	10	......	......	......	3	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......
Ulster	......	......	......	2	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	1	......	1	......	......	......	......	......
Wyoming	......	......	......	1	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-29 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Deliquent (Designated Felony Only) Proceedings (Girls)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Total Dispo-sitions	No Adjudication										
		Dis-missed For Failure of Proof at Fact Finding Hearing	Other Dis-missal at Fact Finding Hearing	Dis-missed at Dispo-sitional Hearing	Dis-missed For Failure to Prose-cute	Dis-missed With-out Pre-judice	Dis-missed in Furth-erance of Justice (A.C.D.)	Other Dis-missal	With-drawn	Trans-ferred to Another County	Dis-charged to Another Petition	Dis-charged To Mental Hygiene Insti-tution
Total New York State	21	1	......	......	2	......	......	1	1	......	1	......
Total New York City	14	1	......	......	2	......	......	......	1	......	......	......
New York	2	......	......	......	1	......	......	......	......	......	......	......
Kings	1	......	......	......	......	......	......	......	......	......	......	......
Queens	2	1	......	......	......	......	......	......	1	......	......	......
Bronx	9	......	......	......	1	......	......	......	......	......	......	......
Richmond	......	......	......	......	......	......	......	......	......	......	......	......
Total Upstate	7	......	......	......	......	......	......	1	......	......	1	......
Albany	2	......	......	......	......	......	......	......	......	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	......	......	......	......	......	......	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......	......
Dutchess	1	......	......	......	......	......	......	......	......	......	1	......
Erie	......	......	......	......	......	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......	......
Monroe	......	......	......	......	......	......	......	......	......	......	......	......
Montgomery	......	......	......	......	......	......	......	......	......	......	......	......
Nassau	1	......	......	......	......	......	......	......	......	......	......	......
Niagara	......	......	......	......	......	......	......	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	......	......	......	......	......	......	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......	......
Rockland	1	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......	......
Suffolk	2	......	......	......	......	......	......	1	......	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......	......
Ulster	......	......	......	......	......	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	......	......	......	......	......	......	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-29 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Designated Felony Only) Proceedings (Girls)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	*Other Placement
Total New York State	......	......	......	3	......	2	......	8	......	......	2
Total New York City	......	......	......	2	......	2	......	6	......	......	......
New York	......	......	......	......	......	......	......	1	......	......	......
Kings	......	......	......	1	......	......	......	......	......	......	......
Queens	......	......	......	......	......	......	......	......	......	......	......
Bronx	......	......	......	1	......	2	......	5	......	......	......
Richmond	......	......	......	......	......	......	......	......	......	......	......
Total Upstate	......	......	......	1	......	......	......	2	......	......	2
Albany	......	......	......	......	......	......	......	2	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	......	......	......	......	......	......	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	......	......	......	......	......	......	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	......	......	......	......	......	......	......	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	......	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......
Dutchess	......	......	......	......	......	......	......	......	......	......	......
Erie	......	......	......	......	......	......	......	......	......	......	......
Essex	......	......	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	......	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	......	......	......	......	......	......	......	......
Lewis	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......
Monroe	......	......	......	......	......	......	......	......	......	......	......
Montgomery	......	......	......	......	......	......	......	......	......	......	......
Nassau	......	......	......	......	......	......	......	......	......	......	......
Niagara	......	......	......	......	......	......	......	......	......	......	1
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	......	......	......	......	......	......	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......
Orange	......	......	......	......	......	......	......	......	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	......	......	......	......	......	......	......	......	......	......
Putnam	......	......	......	......	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	......	......	......	......	......	......	......	......
St. Lawrence	......	......	......	......	......	......	......	......	......	......	1
Saratoga	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	......	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	......	......	......	......	......	......	......	......
Suffolk	......	......	......	1	......	......	......	......	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	......	......	......	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......
Ulster	......	......	......	......	......	......	......	......	......	......	......
Warren	......	......	......	......	......	......	......	......	......	......	......
Washington	......	......	......	......	......	......	......	......	......	......	......
Wayne	......	......	......	......	......	......	......	......	......	......	......
Westchester	......	......	......	......	......	......	......	......	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-30 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felony) Proceedings (Boys)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	8,746	140	......	63	381	307	1,967	1,124	1,302	158	153	1
Total New York City	3,791	82	......	27	298	135	720	433	837	5	13	1
New York	1,003	32	......	5	100	77	80	87	178	3	6	1
Kings	1,437	14	......	7	79	36	402	199	400	......	......	......
Queens	831	27	......	12	100	3	150	39	177	2	3	......
Bronx	423	9	......	2	15	17	33	93	74	......	1	......
Richmond	97	......	......	1	4	2	55	15	8	......	3	......
Total Upstate	4,955	58	......	36	83	172	1,247	691	465	153	140	......
Albany	241	......	......	......	......	......	124	35	6	7	......	......
Allegany	4	1	......	......	......	1	......	1	......	......	......	......
Broome	155	......	......	1	2	1	7	39	4	2	......	......
Cattaraugus	24	1	......	......	......	......	2	2	4	......	......	......
Cayuga	25	2	......	......	......	......	4	2	3	1	......	......
Chautauqua	86	......	......	......	......	6	30	27	2	......	......	......
Chemung	87	......	......	......	......	2	6	1	2	1	10	......
Chenango	18	......	......	......	......	......	4	1	......	......	......	......
Clinton	21	......	......	......	......	......	6	......	2	1	......	......
Columbia	21	1	......	......	......	3	4	......	......	1	......	......
Cortland	19	1	......	......	......	......	4	4	......	7	......	......
Delaware	9	1	......	......	......	3	......	3	......	......	......	......
Dutchess	145	1	......	......	2	1	23	5	3	4	27	......
Erie	271	6	......	4	14	49	106	22	......	2	......	......
Essex	11	......	......	......	......	2	4	2	1	......	......	......
Franklin	12	......	......	......	......	......	1	1	......	......	......	......
Fulton	20	......	......	......	......	......	11	1	1	......	1	......
Genesee	18	......	......	......	......	......	5	5	2	1	......	......
Greene	19	......	......	......	3	......	1	3	......	1	2	......
Hamilton	2	......	......	......	......	......	......	......	......	......	......	......
Herkimer	21	......	......	......	......	......	......	......	4	1	......	......
Jefferson	73	......	......	......	2	3	8	2	11	1	7	......
Lewis	2	......	......	......	......	......	......	1	......	......	......	......
Livingston	8	......	......	......	......	......	5	......	......	......	......	......
Madison	21	......	......	......	3	......	6	1	......	......	......	......
Monroe	349	2	......	......	2	14	103	35	10	5	......	......
Montgomery	19	2	......	......	......	......	11	3	1	......	1	......
Nassau	582	......	......	......	......	11	82	103	5	75	56	......
Niagara	96	7	......	......	9	......	5	4	19	1	1	......
Oneida	1	......	......	......	......	......	......	......	1	......	......	......
Onondaga	435	......	......	......	16	21	185	107	24	......	......	......
Ontario	10	......	......	......	......	......	1	......	......	......	......	......
Orange	143	1	......	......	1	......	44	34	5	2	......	......
Orleans	7	......	......	1	......	......	......	......	......	......	1	......
Oswego	4	......	......	......	......	......	......	......	......	......	1	......
Otsego	10	......	......	......	......	......	1	......	......	......	......	......
Putnam	69	5	......	......	1	......	27	2	7	......	......	......
Rensselaer	5	......	......	......	......	......	1	......	1	......	1	......
Rockland	81	......	......	......	1	3	22	3	5	2	3	......
St Lawrence	21	3	......	......	2	......	1	......	......	1	2	......
Saratoga	154	1	......	......	4	3	93	21	......	7	......	......
Schenectady	22	1	......	......	1	......	......	2	6	3	......	......
Schoharie	9	......	......	......	......	......	1	......	......	......	......	......
Schuyler	6	......	......	......	......	2	2	......	......	2	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	50	......	......	......	1	1	10	12	3	......	1	......
Suffolk	1,105	5	......	29	15	36	196	159	268	10	9	......
Sullivan	24	1	......	......	......	1	1	2	2	1	4	......
Tioga	1	......	......	......	......	......	......	......	......	......	......	......
Tompkins	12	......	......	......	......	......	4	4	2	......	......	......
Ulster	83	3	......	......	......	7	7	11	11	4	......	......
Warren	29	......	......	......	......	......	7	1	......	......	1	......
Washington	26	5	......	......	1	......	2	......	......	1	......	......
Wayne	51	......	......	......	1	......	20	7	4	......	3	......
Westchester	199	8	......	1	2	2	52	20	44	9	9	......
Wyoming	19	......	......	......	......	......	8	3	2	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-30 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felony) Proceedings (Boys)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	245	76	1,276	9	337	434	676	1	7	89
Total New York City	......	106	12	388	1	26	337	331	1	3	35
New York	......	34	3	122	1	5	132	122	......	......	15
Kings	......	40	7	79	......	9	49	97	......	......	19
Queens	......	16	2	116	......	9	117	56	......	1	1
Bronx	......	13	......	67	......	3	38	55	1	2	......
Richmond	......	3	......	4	......	......	1	1	......	......	......
Total Upstate	......	139	64	888	8	311	97	345	......	4	54
Albany	......	......	9	15	......	18	2	25	......	......	......
Allegany	......	......	......	1	......	......	......	......	......	......	......
Broome	......	......	......	55	......	24	4	15	......	......	1
Cattaraugus	......	1	2	6	......	3	......	2	......	......	1
Cayuga	......	3	3	3	......	......	4	......	......	......	......
Chautauqua	......	......	......	9	......	6	......	6	......	......	......
Chemung	......	10	......	20	......	24	......	11	......	......	......
Chenango	......	......	1	5	2	5	......	......	......	......	......
Clinton	......	......	......	......	......	4	7	1	......	......	......
Columbia	......	......	......	5	......	1	......	5	......	1	......
Cortland	......	......	......	1	......	......	2	......	......	......	......
Delaware	......	......	......	......	......	......	1	1	......	......	......
Dutchess	......	8	......	36	......	22	......	12	......	1	......
Erie	......	......	5	15	......	24	4	18	......	......	2
Essex	......	......	......	......	......	1	1	......	......	......	......
Franklin	......	......	......	5	......	2	......	3	......	......	......
Fulton	......	......	......	......	......	5	......	1	......	......	......
Genesee	......	......	......	4	......	......	1	......	......	......	......
Greene	......	......	......	7	......	......	......	2	......	......	......
Hamilton	......	......	......	2	......	......	......	......	......	......	......
Herkimer	......	......	......	6	......	1	5	4	......	......	......
Jefferson	......	......	......	10	......	11	3	15	......	......	......
Lewis	......	......	......	1	......	......	......	......	......	......	......
Livingston	......	......	......	1	......	......	2	......	......	......	......
Madison	......	......	4	1	......	5	......	1	......	......	......
Monroe	......	13	2	36	......	19	7	76	......	......	25
Montgomery	......	......	......	1	......	......	......	......	......	......	......
Nassau	......	16	3	168	4	1	17	18	......	1	22
Niagara	......	2	1	7	......	2	13	24	......	1	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	12	3	22	......	23	5	17	......	......	......
Ontario	......	......	2	7	......	......	......	......	......	......	......
Orange	......	11	......	27	......	5	......	13	......	......	......
Orleans	......	......	......	......	......	1	4	......	......	......	......
Oswego	......	......	......	3	......	......	......	......	......	......	......
Otsego	......	......	......	4	......	3	2	......	......	......	......
Putnam	......	1	......	12	......	3	......	11	......	......	......
Rensselaer	......	......	......	......	......	1	......	1	......	......	......
Rockland	......	2	......	27	......	4	1	8	......	......	......
St. Lawrence	......	......	......	4	......	7	1	......	......	......	......
Saratoga	......	1	......	3	......	14	2	5	......	......	......
Schenectady	......	......	......	7	......	1	......	1	......	......	......
Schoharie	......	1	......	4	......	2	......	1	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	1	7	......	10	4	......	......	......	......
Suffolk	......	32	21	263	......	30	2	29	......	......	1
Sullivan	......	1	......	4	......	2	......	5	......	......	......
Tioga	......	......	......	......	......	......	1	......	......	......	......
Tompkins	......	......	......	......	......	1	1	......	......	......	......
Ulster	......	19	......	17	......	1	......	3	......	......	......
Warren	......	......	4	4	......	8	......	4	......	......	......
Washington	......	1	1	5	2	5	1	2	......	......	......
Wayne	......	3	......	7	......	5	......	1	......	......	......
Westchester	......	2	2	36	......	7	......	3	......	......	2
Wyoming	......	......	......	5	......	......	......	1	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-31 (partial)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felony) Proceedings (Girls)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition	Discharged To Mental Hygiene Institution
Total New York State	1,330	20	......	8	52	61	382	212	157	50	8	......
Total New York City	452	9	......	6	40	33	117	66	80	3	......	......
New York	124	3	......	1	12	28	18	22	13	1	......	......
Kings	173	......	......	1	11	3	61	27	44	1	......	......
Queens	96	5	......	4	15	2	17	6	19	1	......	......
Bronx	36	1	......	......	2	......	2	8	4	......	......	......
Richmond	23	......	......	......	......	......	19	3	......	......	......	......
Total Upstate	878	11	......	2	12	28	265	146	77	47	8	......
Albany	65	......	......	......	......	......	35	14	1	4	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......	......
Broome	27	......	......	......	......	......	......	10	......	......	......	......
Cattaraugus	1	......	......	......	......	1	......	......	......	......	......	......
Cayuga	9	1	......	......	......	......	1	......	1	......	......	......
Chautauqua	3	......	......	......	......	1	2	......	......	......	......	......
Chemung	36	......	......	......	......	1	5	1	1	3	......	......
Chenango	2	......	......	......	......	2	......	......	......	......	......	......
Clinton	1	1	......	......	......	......	......	......	......	......	......	......
Columbia	4	......	......	......	......	......	1	......	......	......	......	......
Cortland	3	......	......	......	......	......	1	......	1	1	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......	......
Dutchess	22	1	......	......	1	......	6	1	......	1	2	......
Erie	51	4	......	......	......	5	23	9	......	1	......	......
Essex	3	......	......	......	......	......	......	2	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......	......
Fulton	4	......	......	......	......	......	3	......	......	......	......	......
Genesee	1	......	......	......	......	......	1	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......	......
Herkimer	1	......	......	......	......	......	1	......	......	......	......	......
Jefferson	11	......	......	......	......	......	2	1	1	......	......	......
Lewis	1	......	......	......	......	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......	......
Monroe	73	......	......	......	......	6	21	15	9	2	......	......
Montgomery	1	......	......	......	......	......	1	......	......	......	......	......
Nassau	141	1	......	1	1	4	27	31	......	31	5	......
Niagara	7	......	......	......	1	......	2	1	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	63	......	......	......	1	1	39	12	3	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......	......
Orange	29	......	......	......	......	......	15	5	1	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......	......
Otsego	2	......	......	......	......	......	......	......	......	......	......	......
Putnam	5	......	......	......	......	......	4	......	......	......	......	......
Rensselaer	1	1	......	......	......	......	......	......	......	......	......	......
Rockland	10	1	......	......	......	......	1	......	......	......	......	......
St. Lawrence	3	......	......	......	......	......	1	......	......	......	1	......
Saratoga	17	......	......	......	......	1	13	3	......	......	......	......
Schenectady	7	......	......	......	......	......	1	......	......	1	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	2	......	......	......	......	......	......	......	1	......	......	......
Suffolk	200	......	......	......	7	3	35	30	45	2	......	......
Sullivan	4	......	......	......	......	1	......	2	1	......	......	......
Tioga	3	......	......	......	......	......	......	......	......	......	......	......
Tompkins	2	1	......	......	......	1	......	......	......	......	......	......
Ulster	14	......	......	......	......	......	7	2	5	......	......	......
Warren	1	......	......	......	......	......	......	......	......	......	......	......
Washington	5	......	......	......	......	......	3	......	......	......	......	......
Wayne	16	......	......	......	......	......	5	5	1	......	......	......
Westchester	26	......	......	1	1	1	12	2	6	1	......	......
Wyoming	1	......	......	......	......	......	1	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

Table A-31 (concluded)
FAMILY COURT
Original Petitions Initially Disposed
Juvenile Delinquent (Including Designated Felony) Proceedings (Girls)
Nature of Dispositions by Region and County
January 1, 1984 through December 31, 1984

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division for Youth Title 2	Division for Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	......	36	17	182	......	56	25	53	......	......	11
Total New York City	......	16	2	42	......	6	8	23	......	......	1
New York	......	4	1	13	......	......	3	5	......	......	......
Kings	......	9	1	8	......	2	1	4	......	......	......
Queens	......	2	......	14	......	2	3	5	......	......	1
Bronx	......	1	......	6	......	2	1	9	......	......	......
Richmond	......	......	......	1	......	......	......	......	......	......	......
Total Upstate	......	20	15	140	......	50	17	30	......	......	10
Albany	......	......	1	5	......	......	......	5	......	......	......
Allegany	......	......	......	......	......	......	......	......	......	......	......
Broome	......	......	1	7	......	8	......	1	......	......	......
Cattaraugus	......	......	......	......	......	......	......	......	......	......	......
Cayuga	......	1	1	......	......	2	2	......	......	......	......
Chautauqua	......	......	......	......	......	......	......	......	......	......	......
Chemung	......	6	1	12	......	5	......	1	......	......	......
Chenango	......	......	......	......	......	......	......	......	......	......	......
Clinton	......	......	......	......	......	......	......	......	......	......	......
Columbia	......	......	......	3	......	......	......	......	......	......	......
Cortland	......	......	......	......	......	......	......	......	......	......	......
Delaware	......	......	......	......	......	......	......	......	......	......	......
Dutchess	......	2	......	6	......	1	......	1	......	......	......
Erie	......	......	2	1	......	2	1	3	......	......	......
Essex	......	1	......	......	......	......	......	......	......	......	......
Franklin	......	......	......	......	......	......	......	......	......	......	......
Fulton	......	......	......	......	......	......	......	1	......	......	......
Genesee	......	......	......	......	......	......	......	......	......	......	......
Greene	......	......	......	......	......	......	......	......	......	......	......
Hamilton	......	......	......	......	......	......	......	......	......	......	......
Herkimer	......	......	......	......	......	......	......	......	......	......	......
Jefferson	......	......	......	4	......	3	......	......	......	......	......
Lewis	......	......	......	1	......	......	......	......	......	......	......
Livingston	......	......	......	......	......	......	......	......	......	......	......
Madison	......	......	......	......	......	......	......	......	......	......	......
Monroe	......	1	......	7	......	2	......	8	......	......	2
Montgomery	......	......	......	......	......	......	......	......	......	......	......
Nassau	......	1	2	21	......	2	6	2	......	......	6
Niagara	......	......	......	2	......	1	......	......	......	......	......
Oneida	......	......	......	......	......	......	......	......	......	......	......
Onondaga	......	......	......	......	......	2	2	3	......	......	......
Ontario	......	......	......	......	......	......	......	......	......	......	......
Orange	......	1	......	5	......	1	......	1	......	......	......
Orleans	......	......	......	......	......	......	......	......	......	......	......
Oswego	......	......	......	......	......	......	......	......	......	......	......
Otsego	......	1	......	......	......	......	......	......	......	......	1
Putnam	......	......	......	1	......	......	......	......	......	......	......
Rensselaer	......	......	......	......	......	......	......	......	......	......	......
Rockland	......	......	......	2	......	3	2	......	......	......	1
St. Lawrence	......	......	......	1	......	......	......	......	......	......	......
Saratoga	......	......	......	......	......	......	......	......	......	......	......
Schenectady	......	......	......	5	......	......	......	......	......	......	......
Schoharie	......	......	......	......	......	......	......	......	......	......	......
Schuyler	......	......	......	......	......	......	......	......	......	......	......
Seneca	......	......	......	......	......	......	......	......	......	......	......
Steuben	......	......	......	1	......	......	......	......	......	......	......
Suffolk	......	5	6	47	......	14	3	3	......	......	......
Sullivan	......	......	......	......	......	......	......	......	......	......	......
Tioga	......	......	......	1	......	2	......	......	......	......	......
Tompkins	......	......	......	......	......	......	......	......	......	......	......
Ulster	......	......	......	3	......	......	......	1	......	......	......
Warren	......	......	1	......	......	......	......	......	......	......	......
Washington	......	1	......	1	......	......	......	......	......	......	......
Wayne	......	......	......	2	......	2	1	......	......	......	......
Westchester	......	......	......	2	......	......	......	......	......	......	......
Wyoming	......	......	......	......	......	......	......	......	......	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......

Table A-32
FAMILY COURT
Original Petitions Initially Disposed
Original Allegations* of Family Offense Proceedings By Region
January 1, 1984 through December 31, 1984

Region	Total	Assault	Attempted Assault	Reckless Endanger-ment	Menacing	Disorderly Conduct	Harrass-ment	Other
Total New York State	36,755	13,575	1,164	1,111	3,024	6,575	11,299	7
Total New York City	18,698	7,342	511	345	1,776	2,483	6,239	2
Total Upstate	18,057	6,233	653	766	1,248	4,092	5,060	5

*Figures represent the total number of allegations. Since many petitions contain more than one allegation, the total number of such allegations may be greater than the total number of petitions disposed.

Table A-33 (partial)
FAMILY COURT
Family Offense Proceedings
Original Petitions Initially Disposed by Petitioners and Respondents
January 1, 1984 through December 31, 1984

New York City

	Petitioners								
Respondents	**Total**	**Wife of Respondent**	**Mother of Respondent**	**Husband of Respondent**	**Father of Respondent**	**Daughter of Respondent**	**Son of Respondent**	**Other Member Same Family/ Household of Respondent**	**Other**
Husband of Injured Individual	8,335	8,318	12	0	1	1	0	1	2
Father of Injured Individual	241	34	12	0	0	129	59	4	3
Wife of Injured Individual	655	0	2	648	0	1	3	1	0
Mother of Injured Individual	138	0	2	1	3	87	39	1	5
Son of Injured Individual	1,632	3	1,238	0	382	2	4	2	1
Daughter of Injured Individual	402	0	335	2	60	2	1	0	2
Other Member of Same Family or Household of Injured Individual	678	0	1	0	1	1	0	665	10
Other	552	4	6	0	1	0	0	4	537
Total	12,633	8,359	1,608	651	448	223	106	678	560

Upstate Counties

	Petitioners								
Respondents	**Total**	**Wife of Respondent**	**Mother of Respondent**	**Husband of Respondent**	**Father of Respondent**	**Daughter of Respondent**	**Son of Respondent**	**Other Member Same Family/ Household of Respondent**	**Other**
Husband of Injured Individual	8,718	8,707	3	0	0	0	0	0	8
Father of Injured Individual	241	21	2	0	2	127	73	2	14
Wife of Injured Individual	1,010	0	2	1,001	6	0	0	0	1
Mother of Injured Individual	133	0	0	7	1	90	30	1	4
Son of Injured Individual	989	4	694	0	281	3	1	2	4
Daughter of Injured Individual	276	0	213	0	58	1	1	0	3
Other Member of Same Family or Household of Injured Individual	489	3	1	0	0	0	0	481	4
Other	246	1	6	1	0	2	0	0	236
Total	12,102	8,736	921	1,009	348	223	105	486	274

Table A-33 (concluded)
FAMILY COURT
Family Offense Proceedings
Original Petitions Initially Disposed by Petitioners and Respondents
January 1, 1984 through December 31, 1984

Total New York State

	Petitioners								
Respondents	**Total**	**Wife of Respondent**	**Mother of Respondent**	**Husband of Respondent**	**Father of Respondent**	**Daughter of Respondent**	**Son of Respondent**	**Other Member Same Family/ Household of Respondent**	**Other**
Husband of Injured Individual	17,053	17,025	15	0	1	1	0	1	10
Father of Injured Individual	482	55	14	0	2	256	132	6	17
Wife of Injured Individual	1,665	0	4	1,649	6	1	3	1	1
Mother of Injured Individual	271	0	2	8	4	177	69	2	9
Son of Injured Individual	2,621	7	1,932	0	663	5	5	4	5
Daughter of Injured Individual	678	0	548	2	118	3	2	0	5
Other Member of Same Family or Household of Injured Individual	1,167	3	2	0	1	1	0	1,146	14
Other	798	5	12	1	1	2	0	4	773
Total	24,735	17,095	2,529	1,660	796	446	211	1,164	834

Table A-34
FAMILY COURT
Dispositions of Family Offense Proceedings by Region and County
All Petitions
January 1, 1984 through December 31, 1984

Region County	Total	Dismissed Failure of Proof	Dismissed Failure to Prosecute	Other Dismissal	Withdrawn	Transfer to Another County	Consolidated With Another Petition	Judgment Suspended	Probation	Order of Protection	Probation and Order of Protection	Other
Total New York State	24,737	300	6,582	5,350	3,843	13	49	9	32	8,347	38	170
Total New York City	12,633	201	4,071	4,189	963	2	27	2	18	3,088	16	56
New York	2,105	18	905	399	194	......	......	1	6	571	2	9
Kings	4,667	14	911	2,631	222	......	......	1	7	847	5	29
Queens	3,514	156	1,788	280	332	2	27	......	3	908	5	13
Bronx	1,671	5	106	816	172	......	......	......	1	567	......	4
Richmond	676	8	361	63	43	......	......	......	1	195	4	1
Total Upstate	12,104	99	2,511	1,161	2,880	11	22	7	14	5,259	22	114
Albany	318	2	51	4	98	......	......	......	......	162	......	1
Allegany	40	......	......	3	8	......	......	......	......	29	......	......
Broome	276	1	31	51	15	......	......	......	1	173	......	4
Cattaraugus	2	......	......	......	2	......	......	......	......	......	......	......
Cayuga	33	......	1	......	15	......	......	......	......	17	......	......
Chautauqua	42	......	6	3	13	......	......	......	......	20	......	......
Chemung	47	......	1	......	11	......	1	1	......	20	......	13
Chenango	98	1	25	6	22	1	......	......	1	41	......	1
Clinton	29	......	......	......	24	......	......	......	......	5	......	......
Columbia	79	2	6	4	31	3	......	......	......	33	......	......
Cortland	81	......	2	14	25	......	......	......	......	40	......	......
Delaware	55	7	2	5	16	......	......	1	......	22	2	......
Dutchess	394	16	66	13	99	......	......	......	2	194	1	1
Erie	935	3	288	97	38	......	......	1	1	504	1	2
Essex	18	......	......	3	4	......	......	......	......	10	......	1
Franklin	57	......	1	3	21	......	......	......	......	32	......	......
Fulton	136	1	9	6	45	1	......	......	......	74	......	......
Genesee	69	......	1	4	17	......	......	......	......	45	1	1
Greene	66	......	10	1	19	......	......	......	......	35	......	1
Hamilton	5	......	......	......	1	......	......	......	......	4	......	......
Herkimer	149	5	17	9	44	......	......	......	......	74	......	......
Jefferson	209	1	19	20	74	......	......	......	......	93	......	2
Lewis	19	......	1	3	4	......	......	......	......	11	......	......
Livingston	6	......	......	......	......	......	......	......	......	6	......	......
Madison	39	......	......	2	14	......	......	......	......	23	......	......
Monroe	368	1	......	94	43	......	......	......	1	227	......	2
Montgomery	71	2	1	5	28	......	......	......	......	32	......	3
Nassau	2,728	11	754	250	718	1	8	2	1	945	2	36
Niagara	152	1	15	11	46	......	......	......	1	77	......	1
Oneida	......	......	......	......	......	......	......	......	......	......	......	......
Onondaga	715	......	159	135	77	......	......	......	......	342	1	1
Ontario	54	......	6	3	5	......	1	......	......	37	1	1
Orange	95	......	7	1	19	......	......	1	1	63	......	3
Orleans	26	......	......	5	4	......	......	......	......	15	1	1
Oswego	8	......	1	......	5	......	......	......	......	2	......	......
Otsego	3	......	......	......	......	......	......	......	......	3	......	......
Putnam	154	1	11	6	39	1	......	......	1	94	1	......
Rensselaer	1	......	......	......	......	......	......	......	......	1	......	......
Rockland	256	......	24	3	89	......	......	......	......	140	......	......
St. Lawrence	145	2	4	4	23	......	3	......	......	109	......	......
Saratoga	128	......	16	16	29	2	......	......	......	64	......	1
Schenectady	122	1	17	6	30	1	......	......	1	65	......	1
Schoharie	29	......	......	......	9	......	......	......	......	20	......	......
Schuyler	36	2	16	3	2	......	......	......	......	12	1	......
Seneca	......	......	......	......	......	......	......	......	......	......	......	......
Steuben	58	......	4	8	13	......	......	......	1	32	......	......
Suffolk	2,107	18	542	294	569	1	......	......	......	668	2	13
Sullivan	36	......	1	......	5	......	2	......	......	26	......	2
Tioga	11	1	1	......	2	......	......	......	......	7	......	......
Tompkins	48	......	4	1	11	......	1	......	1	26	1	3
Ulster	156	5	18	11	78	......	......	......	1	35	......	8
Warren	48	3	3	4	15	......	1	......	......	22	......	......
Washington	16	......	1	......	5	......	......	......	......	10	......	......
Wayne	96	......	3	4	38	......	......	......	......	51	......	......
Westchester	1,212	12	365	46	311	......	4	1	......	453	7	11
Wyoming	23	......	1	......	7	......	1	......	......	14	......	......
Yates	......	......	......	......	......	......	......	......	......	......	......	......

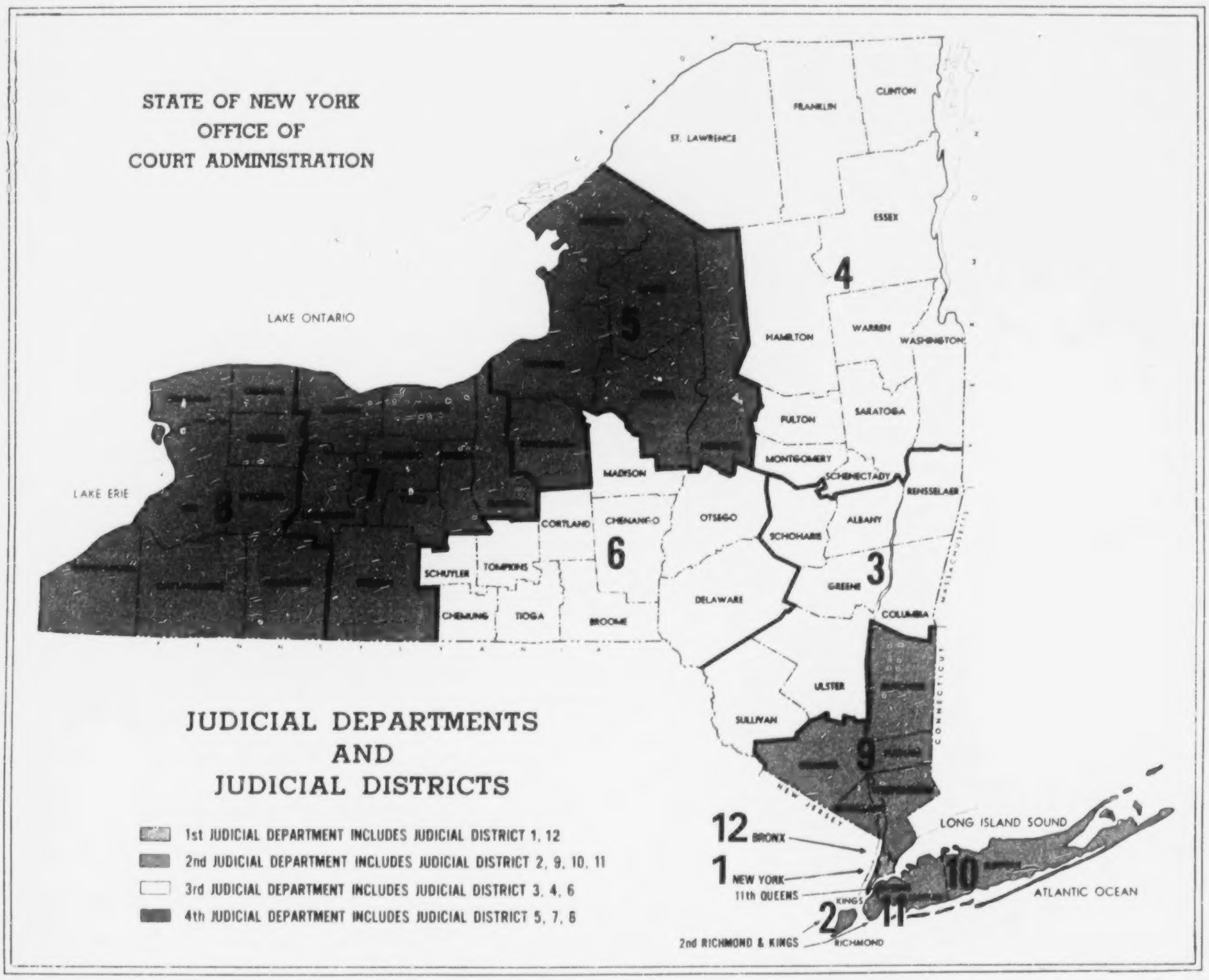
S5730-1-4

STATE OF NEW YORK

Unified Court System

Eighth Annual Report
of
The Chief Administrator of the Courts

1986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LAKE ERIE
ST. LAWRENCE
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MASSACHUSETTS
12 BRONX
1 NEW YORK
11th QUEENS
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STATE OF NEW YORK
OFFICE OF
COURT ADMINISTRATION

JUDICIAL DEPARTMENTS AND JUDICIAL DISTRICTS

- ▨ 1st JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 1, 12
- ▨ 2nd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 2, 9, 10, 11
- ☐ 3rd JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 3, 4, 6
- ■ 4th JUDICIAL DEPARTMENT INCLUDES JUDICIAL DISTRICT 5, 7, 8

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Letter of Transmittal

To:

THE HONORABLE MARIO M. CUOMO, Governor of the State of New York,
and
The Legislature of the State of New York:

Pursuant to Section 212 (j) of the Judiciary Law, I submit this annual report of the activities and state of the unified court system in 1985.

Joseph W. Bellacosa
Chief Administrative Judge

March 15, 1986

COURT OF APPEALS

Sol Wachtler, *Chief Judge*

Bernard S. Meyer	Fritz W. Alexander II
Richard D. Simons	Vito J. Titone
Judith S. Kaye	Stewart F. Hancock, Jr.

ADMINISTRATIVE BOARD OF THE COURTS

Sol Wachtler, *Chairman*

Francis T. Murphy	A. Franklin Mahoney
Milton Mollen	Michael F. Dillon

Legislative Document No. 90

STATE OF NEW YORK

Report
of
The Chief Administrator of the Courts

For the Calendar Year

January 1, 1985 — December 31, 1985

Court of Appeals *(1985)*

Sol Wachtler, *Chief Judge*

Matthew J. Jasen	Judith S. Kaye
Bernard S. Meyer	Fritz W. Alexander II
Richard D. Simons	Vito J. Titone

Chief Administrative Judge of the Courts

Joseph W. Bellacosa

Administrative Board of the Courts

Sol Wachtler, *Chairman*

Francis T. Murphy	A. Franklin Mahoney
Milton Mollen	Michael F. Dillon

State of New York
Unified Court System
1985

JOSEPH W. BELLACOSA
Chief Administrative Judge

MILTON L. WILLIAMS
Deputy Chief Administrative Judge
Courts in New York City

MATTHEW T. CROSSON
Deputy Chief Administrator
for Management Support

ROBERT J. SISE
Deputy Chief Administrative Judge
Courts Outside New York City

Administrative Judges

RICHARD D. HUTTNER
Administrative Judge
New York City Family Court

ISRAEL RUBIN
Administrative Judge
New York City Civil Court

ROBERT G.M. KEATING
Administrative Judge
New York City Criminal Court

XAVIER C. RICCOBONO
Administrative Judge
First Judicial District
Supreme Court, Civil Branch

PETER J. McQUILLAN
Administrative Judge
First Judicial District
Supreme Court, Criminal Branch

LEONARD E. YOSWEIN
Administrative Judge
Second Judicial District
Supreme Court

FRANCIS X. SMITH
Administrative Judge
Eleventh Judicial District
Supreme Court

LOUIS FUSCO, JR.
Administrative Judge
Twelfth Judicial District
Supreme Court, Civil Branch

BURTON B. ROBERTS
Administrative Judge
Twelfth Judicial District
Supreme Court, Criminal Branch

HAROLD E. KOREMAN
Presiding Judge
Court of Claims

EDWARD S. CONWAY
District Administrative Judge
Third Judicial District

J. RAYMOND AMYOT
District Administrative Judge
Fourth Judicial District

WILLIAM R. ROY
District Administrative Judge
Fifth Judicial District

HOWARD A. ZELLER
District Administrative Judge
Sixth Judicial District

JOSEPH G. FRITSCH
District Administrative Judge
Seventh Judicial District

JAMES B. KANE
District Administrative Judge
Eighth Judicial District

JOSEPH F. GAGLIARDI
District Administrative Judge
Ninth Judicial District

ARTHUR D. SPATT
Administrative Judge
Nassau County

ARTHUR M. CROMARTY
Administrative Judge
Suffolk County

- ★ -

MICHAEL COLODNER
Counsel

WILLIAM CLAPHAM
Director, Budget and Finance

THOMAS CHRISTIAN
Director, Community Dispute
Resolution Centers Program

MICHAEL F. McENENEY
Director, Court Operations Services

DON TAYLOR
Director, Education and Training

HOWARD RUBENSTEIN
Director, Employee Relations

ADRIENNE WHITE
Director, Equal Employment
Opportunity

WILLIAM GALLAGHER
Inspector General

RICK ROSS
Director, Programs and Planning

HAROLD WOLFE
Director, Public Information

Preface

This is the Eighth Annual Report of the Chief Administrator of the Courts. It is submitted pursuant to section 212 (j) of the Judiciary Law and covers the period from January 1, 1985 through December 31, 1985.

This report is the eighth in a series that succeeded the annual reports of the Administrative Board of the Judicial Conference, the Judicial Conference, and the Office of Court Administration. That series, in turn, had succeeded the annual reports of the Judicial Council.

The report consists of four chapters. Chapter 1 describes the objectives, the structure, the administration and the financing of the courts in New York State. Chapter 2 presents the caseload activity report for court operations in calendar year 1985. Chapter 3 reports on education and training programs conducted, coordinated or assisted by the Office of Court Administration in 1985.

Chapter 4 summarizes (a) the legislation sponsored by the Office of Court Administration at the 1985 session of the Legislature and (b) rules revised or added during that year. It includes the *1986 Report of the Advisory Committee on Civil Practice to the Chief Administrator of the Courts of the State of New York*, the *1986 Report of the Advisory Committee on Criminal Law and Procedure to the Chief Administrator of the Courts of the State of New York*, the *1986 Report of the Family Court Advisory and Rules Committee to the Chief Administrator of the Courts in the State of New York.*

The Appendices consist of two sections: 1) Other Programs (Retainer and Closing Statements, Statements of Approval of Compensation, Attorney Registration, and Adoption Affidavits), and 2) Family Court Statistics.

The narrative, reportorial and statistical data collected in this report are intended to help the reader and ourselves to understand the judicial branch a bit better. This report can also serve to plan better for the future because by looking back we may see more clearly ahead. What this report cannot convey and cannot do is recount the abiding, burning commitment to the ideal of justice equally dispensed for all. That can be sensed only through the day to day human dynamics of the people in the courthouse: judges, nonjudicial staff, officials, citizens, everyone. And that cannot statistically be measured. It can always be improved though. And that is the real goal which should remain clear and primary.

Please Do Not Destroy or Discard This Report.

When this report is of no further value to the holder, please return it to the Office of Court Administration, 270 Broadway, New York, N.Y. 10007, so that copies will be available for replacement in our sets and for distribution to those who may request them in the future.

Acknowledgement

The Chief Administrator of the Courts gratefully acknowledges the assistance and cooperation extended to him and to the Office of Court Administration during the past year by the Governor and his staff, members of the Legislature, members of the Judiciary, court personnel, bar associations, and individual lawyers and laypersons.

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Chapter 1

The Courts

The *Judiciary* is one of the three branches of New York State Government. The powers and the structure of the New York State Judiciary are embodied in Article VI of the State Constitution. Article VI was approved by the voters in the 1961 election and became effective September 1, 1962, bringing about the first court reorganization in New York since 1894.

Article VI provides for a "unified court system for the state," specifies the organization and the jurisdiction of the courts in the state, and establishes the method of selection and removal of judges and justices.

Article VI also provides for the administrative supervision of the courts. Since April 1, 1978, under a court reform constitutional amendment approved by the people in November 1977, the responsibility and the authority for that function have been vested in the Chief Judge of the Court of Appeals, who is the Chief Judge of the State.

The Judiciary (1) provides a forum for the peaceful, fair and prompt resolution of (a) civil claims and family disputes, (b) criminal charges and charges of juvenile delinquency and (c) disputes between citizens and their government and challenges to governmental actions; (2) determines the legality of wills, adoptions, uncontested divorces and other undisputed matters submitted to the courts for review and approval; (3) provides legal protection for children, mentally ill persons and others entitled by law to the special protection of the court; and (4) regulates the admission of lawyers to the Bar and their conduct and discipline.

1.1 Court Structure

In New York State the courts of original jurisdiction, or trial courts, hear a case in the first instance, and the appellate courts hear appeals from the decisions of other tribunals.

The *appellate courts* are the Court of Appeals, the Appellate Divisions and the Appellate Terms of the Supreme Court, and the County Courts acting as appellate courts in the Third and Fourth Judicial Departments. The *trial courts* of superior jurisdiction are the Supreme Court, the Court of Claims, the Family Court, the Surrogates' Courts and, outside New York City, the County Courts. The trial courts of lesser jurisdiction are the Criminal Court and the Civil Court of the City of New York and, outside New York City, City Courts, District Courts and Town and Village Justice Courts.

The appellate structure of these courts is shown in Figures 1a and 1b.

The *Court of Appeals* is the highest court of the state. It consists of the Chief Judge and six Associate Judges. They are appointed by the Governor for 14-year terms, with the advice and consent of the Senate, from among persons found to be well-qualified by the Commission on Judicial Nomination. Five members of the Court constitute a quorum, and the concurrence of four members is required for a decision.

The jurisdiction of the Court is limited by Section 3 of Article VI of the Constitution to the review of questions of law, except in a criminal case in which the judgment is of death or a case in which the Appellate Division, in reversing or modifying a final or interlocutory judgment or order, finds new facts and a final judgment or order is entered pursuant to that finding. An appeal may be taken directly from the court of original jurisdiction to the Court of Appeals from a final judgment or order in an action or proceeding in which the only question is the constitutionality of a state or Federal statute. In other matters, the Constitution provides that certain cases can be taken to the Court of Appeals as a matter of right, while in still other cases an appeal to the Court of Appeals may be taken only with the leave of a justice of the Appellate Division or a judge of the Court of Appeals or upon the certification of the Appellate Division or the Court of Appeals.

The Court also hears appeals from determinations of the State Commission on Judicial Conduct.

The Appellate Divisions of the Supreme Court are established in each of the state's four judicial departments (see the map at the beginning of this chapter). Their responsibilities are:

- Resolving appeals from judgments or orders of the superior courts of original jurisdiction in civil and criminal cases and reviewing civil appeals taken from the Appellate Terms and the County Courts acting as appellate courts.
- Conducting proceedings to admit, suspend, or disbar lawyers.

Each Appellate Division has jurisdiction over appeals from judgments and from final and some intermediate orders rendered in county-level courts and original jurisdiction over selected proceedings. Where established by the Appellate Division, *Appellate Terms* exercise jurisdiction over civil and criminal appeals from various local courts and nonfelony appeals from the County Courts in the Second Judicial Department.

As prescribed by Section 4, Article VI of the Constitution, justices of the Supreme Court are designated to the Appellate Divisions by the Governor. The Governor designates the Presiding Justice of each Appellate Division, who serves for the length of his or her term of office as a justice of the Supreme Court. Associate justices are designated for five-year terms or for the remainder of their terms of office, whichever period is shorter. Section 212 of the

Judiciary Law provides that justices of the Appellate Terms shall be designated by the Chief Administrator of the Courts with the approval of the Presiding Justices.

The *Supreme Court* has unlimited, original jurisdiction, but it generally hears cases outside the jurisdiction of other courts, such as:

- Civil matters beyond the financial limits of the lower courts' jurisdiction;
- Divorce, separation, and annulment proceedings;
- Equity suits, such as mortgage foreclosures and injunctions; and
- Criminal prosecutions of felonies and indictable misdemeanors in New York City.

Supreme Court justices are elected by judicial district for 14-year terms.

The *County Court* is established in each county outside New York City. It is authorized to handle criminal prosecutions of offenses committed within the county, although in practice, most minor offenses are handled by lower courts. The County Court also has limited jurisdiction in civil cases generally involving amounts up to $25,000.

County Court judges are elected in each county for terms of 10 years.

The *Surrogate's Court* is established in every county and hears cases involving the affairs of decedents, including the probate of wills and the administration of estates, and adoptions.

Surrogates are elected for terms of 10 years in each county outside New York City and for terms of 14 years in each county in New York City.

The *Family Court* is established in each county and the City of New York to hear matters involving children and families. The principal types of cases it hears include:

- Support of dependent relatives;
- Juvenile delinquency;
- Child protection;
- Persons in need of supervision;
- Review and approval of foster-care placements;
- Paternity determinations;
- Family offenses; and
- Adoptions (concurrent jurisdiction with the Surrogate's Court).

Family Court judges are elected for 10-year terms in each county outside New York City and are appointed by the Mayor for 10-year terms in New York City.

The *New York City Civil Court* tries civil cases involving amounts up to $25,000. It includes a Small Claims Part for the informal disposition of matters not exceeding $1,500 and a Housing Part for housing-code violations. New York City Civil Court judges are elected for 10-year terms. In addition to Civil Court judges, special Housing judges are appointed for 5-year terms to sit in Housing Parts. They are not, however, constitutional judges. The appointments are made by the Administrative Judge of the Civil Court.

The *New York City Criminal Court* conducts trials of misdemeanors and violations. Criminal Court judges also act as arraigning magistrates for all criminal offenses. New York City Criminal Court judges are appointed by the Mayor for 10-year terms.

There are four kinds of courts of lesser jurisdiction outside New York City: *District, City, Town* and *Village Courts.* These four courts handle minor civil and criminal matters. The methods of selection and the terms of office of judges of these courts vary throughout the state.

The *Court of Claims* is a special trial court that hears and determines claims against the State of New York. Court of Claims judges are appointed by the Governor, with the advice and consent of the Senate, for nine-year terms.

(See Table 1 for the authorized number of judges in the State Judiciary.)

1.2 Court Administration

Section 28 of Article VI of the State Constitution provides that the Chief Judge of the Court of Appeals is the Chief Judge of the State and its chief judicial officer. The Chief Judge appoints a Chief Administrator of the Courts (who is called the Chief Administrative Judge of the Courts if the appointee is a judge) with the advice and consent of the Administrative Board of the Courts. The Administrative Board consists of the Chief Judge as chairman and the Presiding Justices of the four Appellate Divisions of the Supreme Court.

The Chief Judge establishes statewide administrative standards and policies after consultation with the Administrative Board of the Courts and promulgates them after approval by the Court of Appeals.

The Chief Administrator, on behalf of the Chief Judge, is responsible for supervising the administration and operation of the trial courts and for establishing and directing an administrative office for the courts, called the Office of Court Administration (OCA). In this task, the Chief Administrator is assisted by two Deputy Chief Administrative Judges, who supervise the day-to-day operations of the trial courts in New York City and in the rest of the state, respectively; a Deputy Chief Administrator, who supervises the operations of the units that make up the Office of Management Support; and a Counsel, who directs the legal and legislative work of the Counsel's Office.

The Office of Management Support provides the administrative services required to support all court and auxiliary operations. These services include personnel and budget administration; programs and planning operations; operational services; educational programs for judges and nonjudicial personnel; public information services; employee relations; equal employment opportunity programs; the Office of Inspector General; and the Community Dispute Resolution Centers Program.

Counsel's Office prepares and analyzes legislation, represents the Unified Court System in litigation, and provides various other forms of legal assistance to the Chief Administrator of the Courts.

Responsibility for on-site management of the trial courts and agencies is vested with the Administrative Judges. In each upstate judicial district, there is a District Administrative Judge who is responsible for supervising all courts and agencies. In New York City, Administrative Judges supervise each of the major courts, and the Deputy Chief Administrative Judge provides for management of the complex of courts and court agencies within the City. As a result of an internal management reorganization in 1981, the Administrative Judges not only manage court caseload, but also are responsible for general administrative functions, including personnel and budget administration and all fiscal procedures.

The Court of Appeals and the Appellate Divisions are responsible for the administration of their respective courts. The Appellate Divisions also oversee several Appellate Auxiliary Operations: Candidate Fitness, Attorney Discipline, Assigned Counsel, Law Guardians, and Mental Hygiene Legal Service.

Chapter 156 of the Laws of 1978 implements the constitutional provisions on the administrative supervision of the court system. Sections 211-213 of Article 7-A of the Judiciary Law set forth the administrative functions of the Chief Judge, the Chief Administrator, and the Administrative Board. (See Figure 2.)

1.3 Court Finances

For the New York State fiscal year ending March 31, 1985, the anticipated expenditures for operating all the state courts, except town and village justice courts, were $675.4 million.

1.4 Program Highlights

1.4.1 Individual Assignment System

Much time and effort, including extensive consultation with members of the Bench and Bar, were devoted in 1985 to planning for the shift to the Individual Assignment System (IAS).

The IAS is an approach to case processing under which the judge assigned to a case at its inception handles the case exclusively to its conclusion. This case processing system, which was already in use in the criminal terms of courts of general and limited jurisdiction outside New York City, was extended to all trial courts (except the District Courts in Nassau and Suffolk Counties and the New York City Civil and Criminal Courts) on Jan. 1, 1986. Over time, implementation of the Individual Assignment System is expected to improve the quality of both judicial decision making and the administration of case processing throughout New York State's Courts.

Specifically, it is hoped that the new case processing system will promote (1) the establishment of case processing practices under which each appearance of a case before a judge contributes meaningfully to the progress of the case towards disposition; (2) the delivery to judges of effective legal services, caseload management services, and information management services in support of their work; (3) the disposition of cases within reasonable periods of time; (4) consistent familiarity of judges with the facts and issues of cases over which they preside; (5) the ability of judges to give measured, efficient consideration to matters brought before them, and (6) dignified in-courtroom calendar processing that promotes public confidence in and respect for the courts.

1.4.2 Court Merger

The courts in New York State are often referred to as the Unified Court System. In practice, however, the system is not truly unified.

Currently, the people and the legal professionals of this State are faced with a confusing multiplicity of trial courts with overlapping jurisdictions. The Chief Judge highlighted this problem in his April 22, 1985, State of the Judiciary Message before a Joint Session of the State Legislature.

To deal with this situation, the Judiciary is committed to a phased-in merger of the Court of Claims, County Courts, Family Courts, Surrogates' Courts, District Courts and the New York City Civil and Criminal Courts into a single statewide Supreme Court. A single tier trial court system would promote a more responsive and effective justice process in New York State.

Proposals providing for this fundamental reform have been submitted in both houses of the State Legislature. It is hoped that a consensus on the particulars of a final court merger proposal will be reached during the 1986 legislative session. Once approved by two separately elected legislatures, trial court merger may be placed before the voters as a constitutional amendment.

1.4.3 Court Facilities

The Individual Assignment System and Court Merger are two of the three cornerstones of judicial reform. The third is improved court facilities.

Too often, when citizens seek a dignified place of deliberation in which to resolve their disputes, they find instead esthetic revulsion. They bear witness, not to dignity, but to deterioration, not to actual justice delivered, but to the perception of justice denied or worse, justice degraded.

A few localities have, during the past several years, taken it upon themselves to improve existing court facilities or to build new ones. But the vast majority have not. The time has clearly come for putting into place a comprehensive facilities program for the purpose of building new courthouses and preventing further deterioration of existing structures.

The Office of Court Administration is now developing legislation, based upon a proposal released in December, 1985, that provides a comprehensive program to meet this most urgent need. The proposed legislation will include plans for joint state-municipality sharing programs and creative funding alternatives, including a much improved

Judiciary Law, Section 39 prescription, under which local assistance funds can be withheld from counties and cities that fail to meet their responsibility to provide adequate court facilities.

There are few needs more pressing or more difficult to fulfill than the need to improve substandard courthouse facilities. The judges, the nonjudicial staff, the lawyers, but most important, the public, to whom government owes a responsibility for passing on our most cherished values, are entitled to decent, clean, safe and respectable places in which to dispense justice.

1.4.4 Civil Transfer Plan

The Civil Transfer Plan, whose objective is the reduction of civil case backlogs in the Supreme Court, will be continued in 1986.

In 1985, 14 Civil Transfer Plan parts were operational. Beginning in January 1986, 10 parts will operate, all located in New York City. The 1986 plan creates the equivalent of 110 additional judge terms of Supreme Court for New York City.

1.4.5 Judicial Hearing Officers

Chapter 840 of the Laws of 1983 authorized the creation of the Judicial Hearing Officer Program, providing for the use of qualified retired judges and justices to function as hearing officers in civil and criminal matters pursuant to designation by the Chief Administrative Judge. The program was started in each Judicial District in 1984.

The program was expanded in 1985 as Judicial Hearing Officers became a valued component in the assignment of judicial resources to meet the needs of each Judicial District. At present, the use of Judicial Hearing Officers varies from Judicial District to Judicial District, depending on each District's needs, the availability of retired judges, and the particular judicial attributes of those designated as Judicial Hearing Officers.

Statewide, retired judges and justices have been used for civil matters such as matrimonial issues; accounting proceedings; discovery; certiorari; equitable distribution; medical malpractice panels; preconferencing arbitration cases; and, in criminal cases, hearings on pretrial motions. Their work in these areas has permitted the assignment of full-time judges to trial work, thus promoting the most efficient use of judicial resources.

As emphasis continues to be directed toward case management and efficient use of resources, the role of the Judicial Hearing Officer will continue to expand.

1.4.6 Family Court Hearing Examiner Program

Chapter 809 of the Laws of 1985 significantly changed the operation and scope of the Hearing Examiner Program. Effective Nov. 1, 1985, the new law authorized the Chief Administrator to establish separate support parts in each Family Court. The use of Family Court Hearing Examiners is required in New York City and all counties with a population of over 400,000 and in counties of under 400,000 that have not received an exemption from the Federal Government.

The use of Hearing Examiners is part of a legally mandated expedited process. Family Court Hearing Examiners now "hear and determine" matters related to child support and paternity, in contrast with the previous "hear and recommend" process.

This program is financed in part through federal reimbursement under Title IV-D of the Social Security Act. The U.S. Department of Health and Human Services, Office of Child Support Enforcement, reimburses 70 percent of the costs related to IV-D child support cases. Supporting data for claims are developed by the Office of Court Administration and processed by the Department of Social Services under the single state agency concept. The reimbursed funds are deposited in the state's general fund.

1.4.7 Community Dispute Resolution Centers Program

Established by Chapter 847 of the Laws of 1981, this program provides financial and operational support to locally operated neighborhood centers for the resolution of minor disputes, including many that now clog the courts of limited jurisdiction and contribute to delays and backlogs in the court system. Chapter 156 of the Laws of 1984 made the program a permanent component of the Unified Court System. Chapter 91 of the Laws of 1985 increased to $1,500 the monetary ceiling on awards that may be rendered by mediation centers under contract with the program. While it is too early to assess its impact, the latest legislation is expected to increase the program's caseload.

Since the program began, 224,834 contacts and referrals have been handled by the centers. Among other services, the centers handled 56,120 disputes where an actual conciliation, mediation or arbitration was conducted.

Programs currently operate in 53 counties. In the next two years, it is expected that dispute resolution centers will become available in all 62 counties. There will be a variety of program models based on the workload for each county. In less populated areas, volunteer citizen mediators will be available through a regional office. In urban areas there will be a fully staffed dispute resolution center.

1.4.8 Information and Records Management in the Trial Courts

The creation and management of information and records is one of the principal activities performed in the trial courts of the Unified Court System in support of administration and the case disposition process. The performance of information and records management functions is the primary job of about half of the nonjudicial staff of the trial courts. These functions include the review of case initiation papers and the opening of case files; case indexing, docketing and scheduling; the production of court calendars; case inquiry; the processing of case-related notices, orders, applications and motions; the collection of fees, fines, bail and other costs; the transmission of case records from place to place in courthouses; the processing of records on appeal; the storage and retrieval of case records and exhibits; the creation of reports on caseload activity and the status of case inventories; the production and processing of juror qualification questionnaires and summonses; the maintenance of juror service records; the payment of jurors;

the reporting of criminal case disposition information to the Executive Branch; text-editing; the processing of mail; budget and fiscal administration, personnel records management and information services; and law library administration.

The Unified Court System uses computer technology to meet information and records management requirements in appropriate settings. Manual systems or techniques can be a more effective approach to information and records management for particular sites or functions.

While automation has already begun to reduce back office workload problems, expanded automation and, at certain sites, additional personnel are required. The information and records management functions of the trial courts cannot be performed with efficiency, quality, and cost-effectiveness unless resources for these functions are properly allocated and organized.

To this end, in the spring of 1984, a Staffing Profiles Project was initiated to develop standards for personnel resource allocation and organization for the performance of these information and records management functions. The project, which is expected to take three years, began with a statewide survey of court clerks which provides descriptions of present information and records management functional methods and staffing allocations in the Supreme and County Courts, Family Courts, and City and District Courts. In the project's second phase, standards for the performance of back office functions which recognize both the automated and non-automated environment are being developed, and back office organization charts and "activity tables" describing personnel allocations to all back office tasks are being compiled.

Information and records management committees of court clerks guide the development and implementation of particular profiles. There is a committee for each type of court, and every Judicial District is represented on each committee. The specialized New York City courts of limited jurisdiction also are represented.

1.4.9 Jury Management

A program to achieve the greatest possible efficiencies in the utilization of jurors has been underway in the Unified Court System since the spring of 1982. During the first year, three counties were selected as pilot sites for the collection and analysis of data on juror utilization. In May 1983, the program was expanded to 23 jury assembly rooms in 12 counties, and is currently operational in 15 counties representing 85 percent of statewide jury trial activity.

To date, two principal utilization measures have been emphasized. The first is "overcall," defined as the percentage of prospective (paid) jurors not in use in *voir dire* or trial at the point of peak daily juror usage. The second is "percent to *voir dire,*" defined as the percentage of prospective (paid) jurors reporting to the pool who are sent to *voir dire* (whether examined or not). The data from the program show that during the first eight terms of 1985, an average of 90 percent of all jurors reporting for service each day were examined as prospective jurors (used in *voir dire*).

An automated reporting system has been put into place which focuses on these and other measures of juror need, availability, and utilization. This system helps jury managers maintain the least number of jurors necessary to meet demand, and thereby spend less on juror fees and expenses than would otherwise be necessary if they were operating at less efficient margins.

1.4.10 Law Library and Legal Reference Network

The provision of basic legal research capability is essential if the Judiciary is to meet its principal mandate of fair and timely disposition of cases. Over the past several years, substantial cost increases in the legal reference publishing industry have eroded the ability of the courts and libraries to maintain even basic collections.

Several administrative policies and programs have been implemented to improve the legal reference system. These include an Automated Legal Reference Management System, which serves as an inventory and fiscal control tool; negotiation of bulk purchase and special billing arrangements with legal reference publishers, and redistribution of legal reference resources to avoid unnecessary purchasing.

1.4.11 Additional Judgeships

In 1981, at the request of the Legislature, an analysis of judicial workload was prepared which demonstrated the need for substantial additional judgeships throughout the state. The Legislature subsequently passed and the Governor signed Chapter 500 of the Laws of 1982, which created 98 additional judgeships. Later events left 30 of those judgeships not available or unfilled.

Since those estimates were made, the number of case filings has continued to increase. The study projected that there would be about 41,300 criminal filings in 1981. In 1982 there were actually 47,340 criminal filings, and the final 1984 filings totalled 49,191. The study also projected that there would be 65,900 civil filings. Final 1984 statistics showed a total of 68,361 civil filings.

The Office of Court Administration is currently conducting (for release in February 1986) a thorough analysis of the specific need for particular additional judgeships in particular courts. This analysis necessarily must address, among other things, the shortage of available courtroom space in which to assign new judges.

Table 1
NEW YORK STATE JUDICIAL SYSTEM
Authorized Number of Judges
December 31, 1985

Number of Judges	*Court*
7	Court of Appeals
44[a]	Supreme Court, Appellate Divisions
276[ab]	Supreme Court, Trial Parts
42[a]	Supreme Court, Certificated Retired Justices
17	Court of Claims
15	Court of Claims — Judges appointed pursuant to Chapter 603, Laws of 1973, Emergency Dangerous Drug Control Program, as amended by Chapters 500, 501, Laws of 1982.
33	Surrogates' Courts — including 6 Surrogates in the City of New York
67	County Courts — County Judges outside the City of New York, in counties that have separate Surrogates and Family Court Judges
10	County Courts — County Judges who are also Surrogates
7	County Courts — County Judges who are also Family Court Judges
33	County Courts — County Judges who are also Surrogates and Family Court Judges
116[c]	Family Courts — including 42 Family Court Judges in the City of New York
107	Criminal Court of the City of New York
120[d]	Civil Court of the City of New York
49	District Courts — in Nassau and Suffolk Counties
165[e]	City Courts in the 61 Cities outside the City of New York—including Acting and Part-time Judges
1,108	Total
2,327	Total and Village Justice Courts

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[a] In addition to the 24 Supreme Court Justices permanently authorized, 16 Justices and 8 Certificated Retired Justices were temporarily designated to the Appellate Division.

[b] Does not include judges of other courts, expecially the Civil and the Criminal Courts of the City of New York, who sat as Acting Supreme Court Justices during the year.

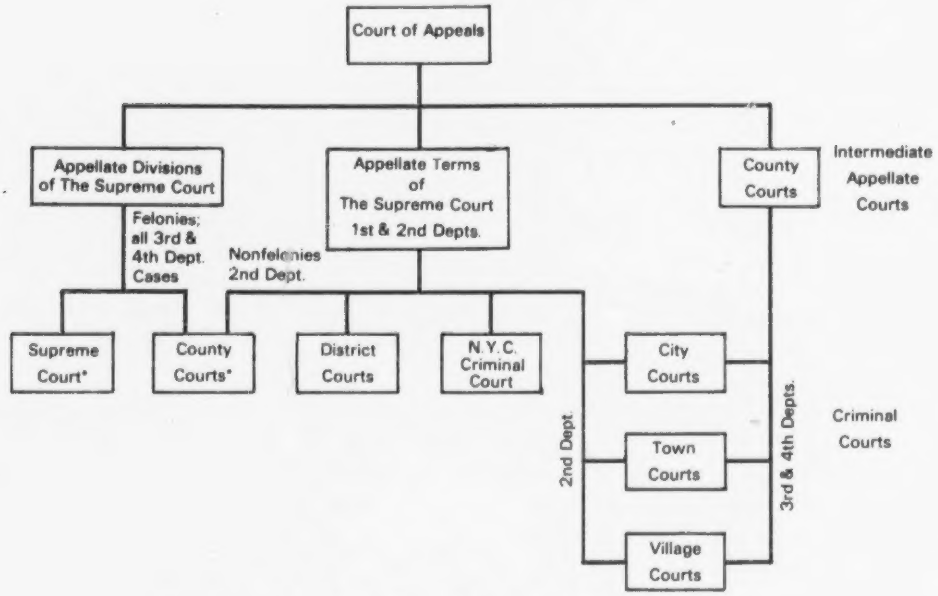
[c] Chapter 547,h of 1985 added a third Family Court Judge in Orange County, to be elected at the General election held 11/85.

[d] Does not include the additional 11 Civil Court Judgeships authorized by the 1982 Session Laws, Chapter 500, but still not filled.

[e] Chapter 548,h of 1985 added a 7th City Court Judge to the City Court of Rochester to be elected at the General Election held 11/85.

Figure 1-a

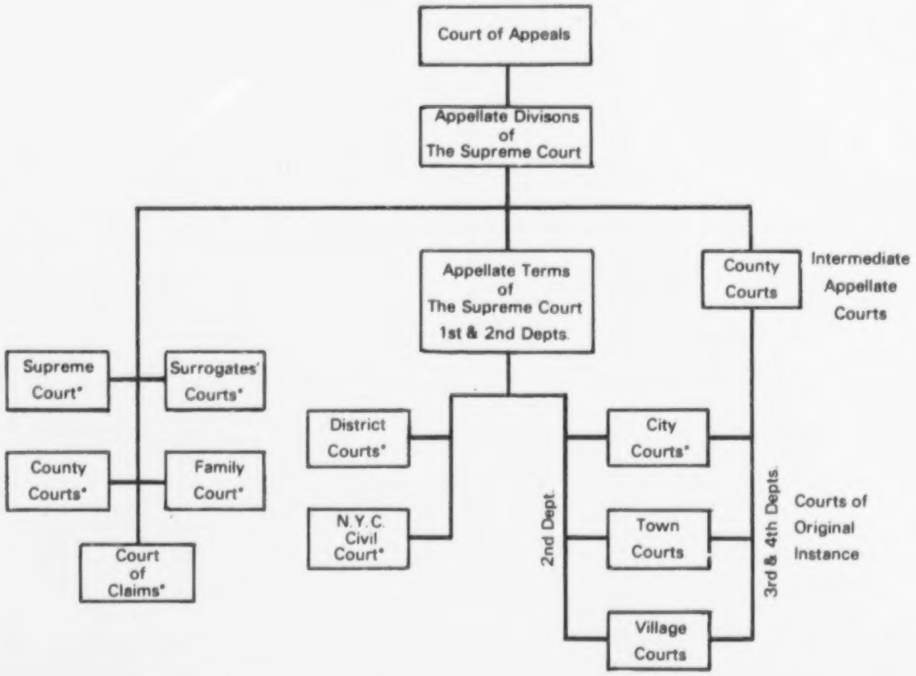
NEW YORK STATE JUDICIAL SYSTEM
Criminal Appeals Structure


Court of Appeals
Appellate Divisions of The Supreme Court
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Felonies; all 3rd & 4th Dept. Cases
Nonfelonies 2nd Dept.
Supreme Court*
County Courts*
District Courts
N.Y.C. Criminal Court
City Courts
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Criminal Courts

*Appeals involving death sentences must be taken directly to the Court of Appeals.

Figure 1-b

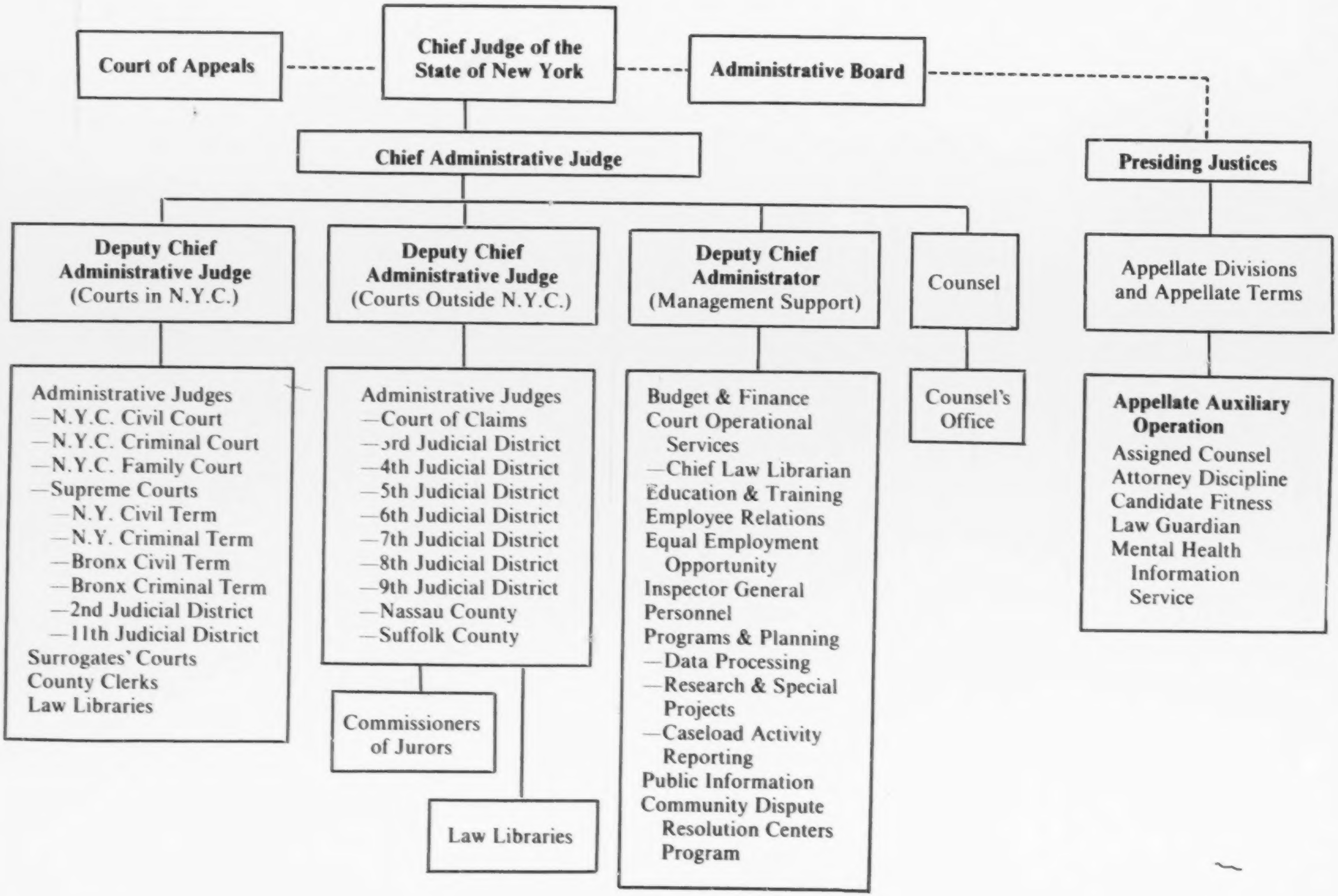
NEW YORK STATE JUDICIAL SYSTEM
Civil Appeals Structure


Court of Appeals
Appellate Divisons of The Supreme Court
Appellate Terms of The Supreme Court 1st & 2nd Depts.
County Courts
Intermediate Appellate Courts
Supreme Court*
Surrogates' Courts*
County Courts*
Family Court*
Court of Claims*
District Courts*
N.Y.C. Civil Court*
City Courts*
Town Courts
Village Courts
2nd Dept.
3rd & 4th Depts.
Courts of Original Instance

*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York State or United States Constitution may be taken directly to the Court of Appeals. Only some of the City Courts are courts of record.

Figure 2

UNIFIED COURT SYSTEM
Administrative Structure


Court of Appeals
Chief Judge of the State of New York
Administrative Board
Chief Administrative Judge
Presiding Justices
Deputy Chief Administrative Judge (Courts in N.Y.C.)
Deputy Chief Administrative Judge (Courts Outside N.Y.C.)
Deputy Chief Administrator (Management Support)
Counsel
Appellate Divisions and Appellate Terms
Administrative Judges
—N.Y.C. Civil Court
—N.Y.C. Criminal Court
—N.Y.C. Family Court
—Supreme Courts
—N.Y. Civil Term
—N.Y. Criminal Term
—Bronx Civil Term
—Bronx Criminal Term
—2nd Judicial District
—11th Judicial District
Surrogates' Courts
County Clerks
Law Libraries
Administrative Judges
—Court of Claims
—3rd Judicial District
—4th Judicial District
—5th Judicial District
—6th Judicial District
—7th Judicial District
—8th Judicial District
—9th Judicial District
—Nassau County
—Suffolk County
Commissioners of Jurors
Law Libraries
Budget & Finance
Court Operational Services
—Chief Law Librarian
Education & Training
Employee Relations
Equal Employment Opportunity
Inspector General
Personnel
Programs & Planning
—Data Processing
—Research & Special Projects
—Caseload Activity Reporting
Public Information
Community Dispute Resolution Centers Program
Counsel's Office
Appellate Auxiliary Operation
Assigned Counsel
Attorney Discipline
Candidate Fitness
Law Guardian
Mental Health Information Service

Chapter 2

Caseload Activity Report

2.1 Introduction

There were 2,979,201 filings in the trial courts of the Unified Court System during 1985, including 486,807 parking tickets.[1,2,3] Of the 2,492,394 remaining cases, 46% (1,156,894) were filed in criminal courts, 33% (825,929) in civil courts, 16% (391,322) in the Family Courts, and 5% (118,249) in the Surrogates' Courts.

Dispositions in the trial courts during 1985 totaled 3,026,455. Excluding parking tickets, there were 2,539,648 dispositions as follows: criminal courts—45%, civil courts—33%, Family Courts—15%, Surrogates' Courts—7%.

Table 2 shows a breakdown of filings and dispositions in the trial courts by type of court.

2.2 Criminal Cases

Criminal cases are processed in the trial courts as follows. Felony indictments and superior court informations are processed in the Criminal Term of the Supreme Court in New York City and in the County Courts outside of New York City. In several counties outside of New York City, a portion of the felony caseload is processed in the Supreme Court as well. The courts of limited jurisdiction—Criminal Court of the City of New York; District Courts of Nassau and Suffolk; and City, Town, and Village Courts outside of New York City—have original jurisdiction over felonies and complete jurisdiction over misdemeanors, violations, and infractions.

Criminal Term of Supreme and County Courts

Filings: Statewide, 51,034 felony cases were filed in Supreme and County Courts during 1985.[4] This level of filings was an increase of 4% from the 49,191 filings in 1984. Sixty percent (30,728) of 1985 filings occurred in New York City.

Table 3 shows a breakdown of 1985 filings by judicial district. The greatest rates of increase were in the 12th (Bronx) and 7th (Monroe and surrounding counties) JDs. Filings in the 12th JD rose 34% from 5,014 in 1984 to 6,700 in 1985. Filings in the 7th JD rose 16% from 2,119 to 2,450. All other district changes were moderate by comparison.

Table 4 focuses on individual counties, ranking the fifteen counties with 400 or more felony-case filings. These fifteen of the sixty-two counties accounted for 87% of all filings. New York County had the highest volume, with 10,041 filings. Kings, Bronx, and Queens followed.

Dispositions: Statewide, 50,790 cases reached disposition (guilty plea, trial verdict, dismissal, or other) in 1985, a slight increase from the 50,354 dispositions in 1984. Fifty-nine percent (30,004) of the statewide dispositions were in New York City.

Table 3 shows 1985 dispositions by judicial district. Dispositions in the 12th JD (Bronx) increased 11% from 5,482 in 1984 to 6,070 in 1985. Dispositions in the 3rd JD (Albany and surrounding counties) increased 9% to 1,379 in 1985 from 1,267 in 1984.

Table 4 shows that sixteen counties with over 400 dispositions accounted for 87% of all felony-case dispositions. Eleven counties with over 40 trials commenced accounted for 89% of felony trials commenced statewide in 1985. Of the total of 5,184 felony trials commenced, 4,362 (84%) were jury trials.

Figure 3 shows felony-case dispositions by type. There were 40,260 guilty pleas (79%), 4,989 dismissals (10%), 4,697 trial verdicts (9%), and 844 other dispositions (2%). This breakdown is similar to that of previous years.

Criminal Courts of Limited Jurisdiction

Criminal Court of the City of New York: There were 274,894 arrest-case dockets filed in the Criminal Court of the City of New York in 1985. There were 266,590 dispositions in this period. These figures were increases of 6% in filings and 9% in dispositions compared with 1984.

Of the dispositions, 52% were by guilty plea, 29% by dismissal, 12% by referral to grand jury or transfers to Supreme Court for waiver of indictment, one-half of 1% by verdict, and 6% were other dispositions. This distribution is nearly identical to that of 1984.

There were 157,314 summonses added to the calendar. (In addition, 461,843 summonses were filed to which defendants did not respond.) There were 163,698 dispositions. Both intake and disposition figures include a small number of summonses handled by mail.[5]

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[1] All data in this chapter are from the Caseload Activity Reporting System of the Unified Court System. Courts report data to the Office of Court Administration pursuant to the Rules of the Chief Administrator of the Courts (22 NYCRR 115).

[2] In 1985, parking ticket caseload activity was measured for the first time.

[3] Excludes Town and Village Courts. An estimated additional two million cases were filed and disposed in these courts in 1984 (data not yet available).

[4] "Cases" are a count of "defendant-indictiments," i.e., each defendant on each indictment counts as one case.

[5] In New York City, most motor-vehicle summonses and summonses for certain violations of environmental laws are returnable to administrative agencies outside of the Unified Court System.

Table 2
FILINGS AND DISPOSITIONS IN THE TRIAL COURTS
1985

Court	*Filings*	*Dispositions*
CRIMINAL:		
Supreme and County Courts	51,034	50,790
Criminal Court of the City of New York:		
Arrest Cases	274,894	266,590
Summonses	157,314	163,698
City and District Courts outside New York City:		
Arrest Cases	233,366	224,989
Uniform Traffic Tickets	440,286[a]	440,286
Parking Tickets	486,807[a]	486,807
CRIMINAL SUBTOTAL	1,643,701	1,633,160
CIVIL:		
Supreme Courts	65,819	70,303
Supreme Courts—Uncontested Matrimonial Cases	59,375	61,827
Civil Court of the City of New York:		
Civil Actions	40,284	30,229[b]
Civil Actions—Default Judgments	140,616[c]	140,616
Small Claims	56,691	58,437
Landlord/Tenant Summary Proceedings	138,660	145,928
Landlord/Tenant Summary Proceedings—Default Judgments	114,716[c]	114,716
Landlord/Tenant Actions and Special Proceedings	10,846	12,648
City and District Courts outside New York city:		
Civil Actions and Landlord/Tenant Cases	65,263	57,706[b]
Civil Actions and Landlord/Tenant Cases—Default Judgments	77,703[c]	77,703
Small Claims	50,847	48,803
County Courts	1,575	2,060
Court of Claims	1,953	1,731
Arbitration Program	14,540[d]	14,413
Small Claims Assessment Review Program	1,581	1,496
CIVIL SUBTOTAL	825,929	838,616
FAMILY	391,322	377,879
SURROGATE'S	118,249	176,800[e]
TOTAL	2,979,201	3,026,455

[a] The disposition figure is used as intake.

[b] Does not include dispositions in the Arbitration Program.

[c] The disposition figure is used as intake. This is the number of cases filed in which there was no answer, but in which a default judgment was entered. These cases were not calendared.

[d] Shown here for reference only and not included in totals. Recorded as intake in the civil courts listed immediately above.

[e] Surrogate's Court dispositions include orders signed, decrees signed, and letters issued.

Table 3
DEFENDANT-INDICTMENTS FILED AND DISPOSED AND TRIALS COMMENCED
By Judicial District
1985

Judicial District	*Filings*	*Dispositions*	*Trials Commenced*
New York City:			
1st	10,041	10,671	1,116
2nd	8,235	7,795	886
11th	5,752	5,468	734
12th	6,700	6,070	626
Subtotal	(30,728)	(30,004)	(3,362)
Outside New York City:			
3rd	1,275	1,379	121
4th	1,253	1,243	94
5th	2,286	2,236	163
6th	1,519	1,605	125
7th	2,450	2,291	286
8th	2,921	3,008	289
9th	2,975	3,373	365
10th-Nassau	2,427	2,395	200
10th-Suffolk	3,200	3,256	179
Subtotal	(20,306)	(20,786)	(1,822)
Statewide Total	51,034	50,790	5,184

Table 4
DEFENDANT-INDICTMENTS FILED AND DISPOSED AND TRIALS COMMENCED[a]
Top Counties By Volume
1985

	County	*Filings*	*County*	*Dispositions*	*County*	*Trials Commenced*
	New York	10,041	New York	10,671	New York	1,116
	Kings	7,900	Kings	7,424	Kings	860
	Bronx	6,700	Bronx	6,070	Queens	734
Top	Queens	5,752	Queens	5,468	Bronx	626
Ten	Suffolk	3,200	Suffolk	3,256	Westchester	316
	Nassau	2,427	Nassau	2,395	Monroe	215
	Erie	1,826	Westchester	1,838	Nassau	200
	Westchester	1,485	Erie	1,776	Erie	198
	Monroe	1,468	Monroe	1,360	Suffolk	179
	Onondaga	1,261	Onondaga	1,205	Onondaga	116
	Subtotal	42,060	Subtotal	41,463	Subtotal	4,560
	(82% of statewide 1985 filings)		(82% of statewide 1985 dispositions)		(88% of statewide 1985 trials commenced)	
	Orange	548	Orange	546	Albany	51
	Broome	515	Broome	519		
	Albany	466	Albany	507		
	Rockland	450	Rockland	481		
	Oneida	446	Niagara	466		
			Oneida	447		
	Total	44,485	Total	44,429	Total	4,611
	(87% of statewide 1985 filings)		(87% of statewide 1985 dispositions)		(89% of statewide 1985 trials commenced)	

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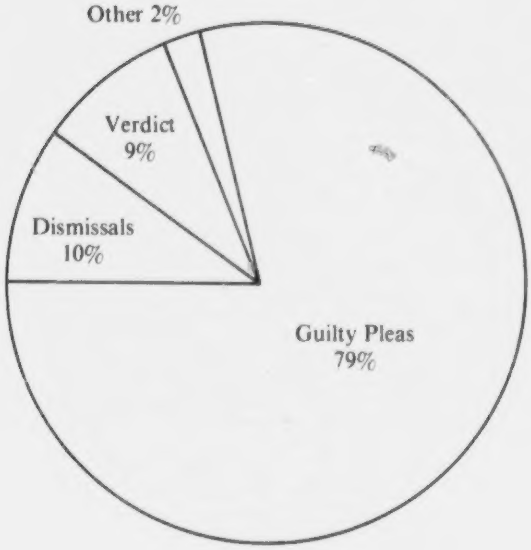
[a] 400 or more filings or dispositions, 40 or more trials.

Figure 3
FELONY DISPOSITIONS
By Type of Disposition
1985



City and District Courts outside New York City: Criminal-case intake in the City Courts and the District Courts (Nassau and Suffolk) was 233,366 in 1985. The courts reported 224,989 dispositions. Of the dispositions, 54% were by guilty plea, 34% by dismissal, 4% by referral to grand jury, 2% by trial verdict, and 6% by other means.

There were 268,129 noncriminal (violations and infractions) Uniform Traffic Tickets disposed by judges in these courts. Slightly over half (144,457) were guilty pleas and 3% (8,386) were trial verdicts. The balance were dismissed. In addition, the clerks' offices disposed of 172,157 tickets. These consisted primarily of fines paid (by personal appearance and mail) and bail forefeitures. In cities without Parking Violations Bureaus, the City and District Courts process parking tickets. There were 486,807 dispositions.

Figure 4 shows criminal caseload activity in the courts of limited jurisdiction.

Figure 4
CRIMINAL CASES IN TRIAL COURTS OF LIMITED JURISDICTION
1985

Criminal Court of the City of New York

Arrest Cases	
Intake[a]	274,894
Dispositions	266,590

Summonses	
Intake[b]	157,314
Dispositions	163,698

City and District Courts outside New York City

Criminal Cases	
Intake	233,366
Dispositions	224,989

Motor-Vehicle Cases[c]	
Dispositions	440,286

Parking[c]	
Dispositions	486,807

---

[a] Of the 274,894 docket numbers filed, there were 250,807 arraignments. Bench warrants issued on desk appearance tickets, many of which were subsequently returned to court, account for the difference between the two figures.

[b] This is the sum of 147,310 arraignments plus 10,004 mailed-in pleas, most of which were guilty pleas and included fine payments.

[c] Intake is not shown because many tickets were filed that did not result in response by the recipients. For the purpose of calculating statewide caseload activity totals, the disposition figure is used as intake.

2.3 Civil Cases

Civil cases are processed in the trial courts as follows. The Supreme Court hears cases involving damages claimed above the financial limits of the courts of limited jurisdiction and also hears matrimonial cases, tax certiorari cases, condemnation cases, and other specialized cases. The courts of limited jurisdiction are the Civil Court of the City of New York; District Courts of Nassau and Suffolk; City, Town and Village Courts outside of New York City; and County Courts. These courts hear cases involving damages claimed of $25,000 or less, as well as landlord/tenant, housing code enforcement, and other matters, including cases transferred from Supreme Court pursuant to CPLR section 325(d). The jurisdictional limit in the City and District Courts outside of New York City is $15,000; the County Courts hear cases involving damages to a maximum of $25,000. Thirty-one counties operate a mandatory Arbitration Program for cases involving $6,000 or less.

The Court of Claims, which is a "specialized" (not a "limited") jurisdiction court, hears civil cases involving claims against the State of New York.

Civil Term of Supreme Court

Filings: Statewide, 65,819 new civil cases were filed in 1985 (not including uncontested matrimonial cases), a slight decrease from the 66,111 new filings in 1984.[6,7] Forty percent (26,331) of the filings were in New York City.

Table 5 shows a breakdown by judicial district. The greatest rate of increase was in the 9th JD (Westchester and surrounding counties), where filings increased 17% to 7,557 in 1985 from 6,452 in 1984. In Suffolk, filings increased 5% to 6,465, and in the 12th JD (Bronx), there was a 6% increase to 4,048.

Table 6 shows counties with 500 or more civil-case filings. The eighteen counties in this category accounted for 91% of all new filings. Nassau ranked first with 10,271. New York, Kings, Suffolk, and Queens followed.

Figure 5 shows statewide civil-case filings in Supreme Court by case type. Motor-vehicle torts accounted for 25% of all filings. All torts, including medical malpractice, accounted for 54%. Fifteen percent of filings were contested matrimonials and 10% were tax certiorari and a small number of condemnation cases.

Dispositions: Statewide, there were 70,303 dispositions in 1985 (not including uncontested matrimonial cases).[8]

Table 5 shows dispositions by judicial district. Sharp increases occurred in two districts compared with 1984. In the 2nd JD (Kings and Richmond), dispositions rose 17% to 10,856 in 1985 from 9,243 in 1984. In the 9th JD (Westchester and surrounding counties), there was a 19% increase from 7,185 to 8,563. There was an increase of 8% in the 8th JD (Erie and surrounding counties) to 5,080.

As shown in Table 6, the eighteen counties with more than 500 dispositions accounted for 91% of civil-case dispositions statewide. Nassau was the county with the most dispositions, followed by Kings and New York.

Table 5 shows that 11,837 civil-case trials were commenced in 1985. There were 4,912 jury trials (41%) and 6,925 nonjury trials (59%).

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[6] A case is defined as commencing with the filing of a trial note of issue. Approximately 300,000 civil-case index numbers were issued by County Clerks statewide in 1985, many of which are settled, withdrawn, or dismissed prior to the filing of a note of issue. The principal court caseload activity for these matters results from pre-note motion practice.

[7] There were also 59,375 uncontested matrimonial cases filed in the Supreme Court in 1985.

[8] There were an additional 61,827 uncontested matrimonial cases disposed in the Supreme Court in 1985.

Table 5
CIVIL CASES FILED AND DISPOSED AND TRIALS COMMENCED IN SUPREME COURTS[a]
By Judicial District
1985

Judicial District	*Filings*	*Dispositions*	*Trials Commenced*
New York City:			
1st	9,099	9,369	1,528
2nd	8,154	10,856	1,134
11th	5,030	5,284	1,069
12th	4,048	3,686	207
Subtotal	(26,331)	(29,195)	(3,938)
Outside New York City:			
3rd	2,419	2,585	566
4th	1,645	1,624	451
5th	2,896	2,698	849
6th	1,211	1,272	323
7th	2,498	2,372	605
8th	4,526	5,080	402
9th	7,557	8,563	1,152
10th-Nassau	10,271	10,688	1,873
10th-Suffolk	6,465	6,226	1,678
Subtotal	(39,488)	(41,108)	(7,899)
Statewide Total	65,819	70,303	11,837

[a] Excludes uncontested matrimonial cases. There were 59,375 filed and 61,827 disposed in 1985.

Table 6

CIVIL CASES FILED AND DISPOSED AND TRIALS COMMENCED IN SUPREME COURTS[a,b]

Top Counties By Volume

1985

	County	*Filings*	*County*	*Dispositions*	*County*	*Trials Commenced*
	Nassau	10,271	Nassau	10,688	Nassau	1,873
	New York	9,099	Kings	9,939	Suffolk	1,678
	Kings	7,210	New York	9,369	New York	1,528
Top	Suffolk	6,465	Suffolk	6,226	Queens	1,069
Ten	Queens	5,030	Queens	5,284	Kings	1,034
	Westchester	4,494	Westchester	4,781	Westchester	543
	Bronx	4,048	Erie	3,769	Onondaga	414
	Erie	3,381	Bronx	3,686	Monroe	383
	Monroe	1,649	Monroe	1,549	Erie	279
	Onondaga	1,524	Onondaga	1,478	Orange	277
	Subtotal	53,171	Subtotal	56,769	Subtotal	9,078
	(81% of statewide 1985 filings)		(81% of statewide 1985 dispositions)		(77% of statewide 1985 trials commenced)	
	Orange	1,116	Orange	1,446	Oneida	266
	Albany	1,056	Albany	1,204	Albany	249
	Richmond	944	Rockland	1,191	Bronx	207
	Rockland	879	Richmond	917	Rockland	146
	Dutchess	863	Dutchess	885	Schenectady	140
	Oneida	790	Oneida	692	Ulster	133
	Ulster	543	Niagara	591	Dutchess	129
	Schenectady	500	Schenectady	547	Saratoga	106
					Richmond	100
	Total	59,862	Total	64,242	Total	10,554
	(91% of statewide 1985 filings)		(91% of statewide 1985 dispositions)		(89% of statewide 1985 trials commenced)	

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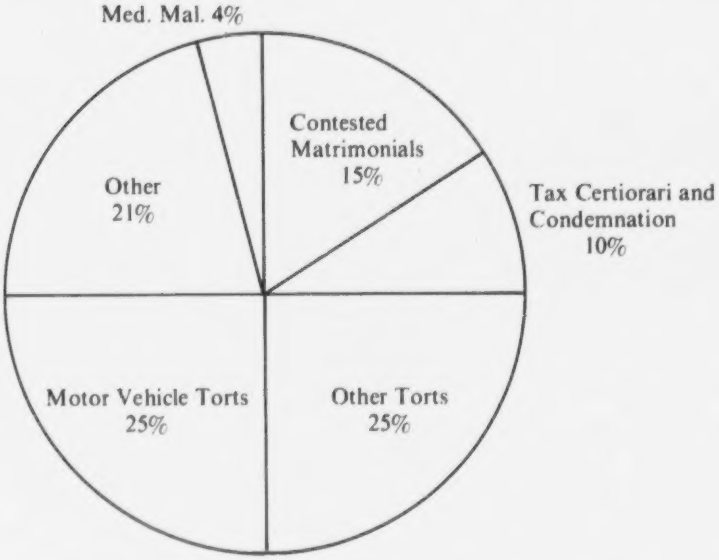
[a] 500 or more filings or dispositions, 100 or more trials.

[b] Excludes uncontested matrimonial cases.

Figure 5
CIVIL CASES FILED IN SUPREME COURT
By Case Type[a]
1985



[a] Excludes uncontested matrimonial cases

Civil Courts of Limited Jurisdiction

Civil Court of the City of New York: In 1985, there were 260,059 civil-action summonses filed. Of that number 40,284 were added to the civil-action calendar. There were 30,229 calendared dispositions. In addition, 140,616 default judgments were entered. (The balance of 79,159 were settled out of court or discontinued before being added to the calendar; they are not counted in intake or disposition totals for the court.) Another 8,052 cases were removed from civil-action calendars for processing in the Arbitration Programs.

A total of 56,691 small claims were filed in 1985. There were 58,437 dispositions.

For landlord/tenant calendars, 372,385 notices of petition were issued in summary proceedings. There were 138,660 summary proceedings added to the calendar and 145,928 disposed. Of the cases not answered, 114,716 default judgments were entered. (The remainder of 119,009 were settled out of court or discontinued before being calendared, and are not counted in intake or disposition totals.)

Other landlord/tenant actions and proceedings consisted primarily of housing code enforcement matters. There were 10,846 additions to the calendar and 12,648 dispositions.

City and District Courts outside New York City: In 1985, 65,263 civil cases and landlord/tenant cases were added to the calendar. There were 57,706 dispositions of calendared cases in this category, excluding transfers to the Arbitration Program. There were 4,088 transfers to the Arbitration Program—some after conferencing and others were not calendared. In addition, 77,703 default judgments were entered in the clerks' offices.

There were 50,847 small claims instituted and 48,803 disposed.

County Courts: Civil actions added to the calendar in 1985 totaled 1,575; 2,060 were disposed in 1985.

Court of Claims: Intake totaled 1,953 in 1985. There were 1,731 dispositions.

Arbitration Program: Thirty-one counties operate a mandatory Arbitration Program for cases involving damages claimed of $6,000 or less. Statewide, 14,540 cases were received for arbitration in 1985. There were 14,413 dispositions in 1985, with 1,804 demands for trial *de novo*, a rate of 13%.

See Figure 6 for civil-case activity in the courts of limited jurisdiction. Table 7, following this figure, shows details of the Arbitration Program by county.

Figure 6
CIVIL CASES IN TRIAL COURTS OF LIMITED JURISDICTION
1985

Civil Court of the City of New York

Landlord/Tenant Cases	
Summary Procedings:	
Intake[a]	138,660
Dispositions	145,928
Other Actions and Proceedings:	
Intake	10.846
Dispositions	12,648

Civil Cases	
Intake[b]	40,284
Dispositions[c]	30,229

Small Claims	
Intake	56,691
Dispositions	58,437

City and District Courts outside New York City

Civil Cases and Landlord/Tenant Cases	
Intake[d]	65,263
Dispositions[e]	57,706

Small Claims	
Intake	50.847
Dispositions	48,803

County Courts

Intake	1,575
Dispositions	2,060

Court of Claims

Intake	1,953
Dispositions	1,731

Aribitration Program

Intake	14,540
Dispositions	14,413

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[a] Default judgments were entered in the clerks' offices in an additional 114,716 actions.

[b] Default judgments were entered in the clerks' offices in an additional 140,616 actions.

[c] Does not include 8,052 referrals to Arbitration Program.

[d] Default judgments were entered in the clerks' offices in an additional 77,703 actions.

[e] Does not include referrals to Arbitration Program.

Table 7
INTAKE, DISPOSITIONS, AND TRIALS *DE NOVO* IN ARBITRATION PROGRAM
1985

County	*Intake*	*Dispositions*	*Demands for Trial de Novo*	*De Novo Rate*
1st Judicial District:				
New York	3,802	3,744	604	16%
2nd Judicial District:				
Kings	1,926	1,798	321	18%
3rd Judicial District:				
Albany	104	100	2	2%
Rensselaer	27	27	15	56%
Ulster	77	65	3	5%
4th Judicial District:				
Schenectady	52	55	4	7%
5th Judicial District:				
Oneida	96	106	8	8%
Onondaga	279	282	53	19%
6th Judicial District:				
Broome	80	74	0	-0-
Chemung	13	10	0	-0-
Schuyler	5	2	0	-0-
Tompkins	57	45	5	11%
7th Judicial District:				
Cayuga	11	12	0	-0-
Livingston	6	8	0	-0-
Monroe	614	575	85	15%
Ontario	28	28	0	-0-
Seneca	7	5	0	-0-
Steuben	20	19	1	5%
Wayne	26	22	3	14%
Yates	9	8	1	13%
8th Judicial District:				
Erie	445	442	25	6%
Niagara	99	118	10	8%
9th Judicial District:				
Dutchess	81	70	0	-0-
Orange	104	87	1	1%
Putnam	19	14	0	-0-
Rockland	95	90	0	-0-
Westchester	596	631	35	6%
10th Judicial District:				
Nassau	2,000	2,067	63	3%
Suffolk	1,477	1,444	118	8%
11th Judicial District:				
Queens	1,597	1,686	350	21%
12th Judicial District:				
Bronx	788	779	97	12%
Statewide Total	14,540	14,413	1,804	13%

Small Claims Assessment Review Program

New York State law provides that owners of a one-, two-, or three- family owner-occupied residence can appeal their real property assessments. When an individual is not satisfied with the outcome of an appeal to the local Board of Assessment Review, he or she may file a petition for hearing in Supreme Court.

In 1985, there were 1,581 petitions filed and 1,496 dispositions. Table 8 shows data for each judicial district.

Table 8
SMALL CLAIMS ASSESSMENT REVIEW FILINGS AND DISPOSITIONS
By Judicial District
1985

Judicial District	*Filings*	*Dispositions*
New York City:		
1st	8	8
2nd	25	15
11th	7	9
12th	4	1
Subtotal	(44)	(33)
Outside New York City:		
3rd	193	191
4th	173	171
5th	219	256
6th	89	89
7th	106	100
8th	119	119
9th	229	169
10th	409	368
Subtotal	(1,537)	(1,463)
Statewide Total	1,581	1,496

2.4 Family Court

The Family Courts reported 391,322 petitions filed in 1985. Of these petitions, 112,752 (29%) were reported in New York City. The remaining 278,570 (71%) were reported outside of New York City. One-third of the statewide filings were supplementary to original petitions.[9]

There were 377,879 petitions disposed in 1985. The total in New York City was 114,160 (30%); outside of New York City, the total was 263,719 (70%).

A breakdown of filings and dispositions is contained in Table 9.

New York State law requires the Chief Administrator of the Courts to report to the State Legislature highly detailed data regarding the nature and outcome of petitions for juvenile delinquency, persons in need of supervision, child protective proceedings, and family offense proceedings. The data are in Appendix 2.

2.5 Surrogate's Court

In 1985, there were 118,249 petitions filed. Surrogate's Court dispositions in 1985 totaled 176,800 including orders signed, decrees signed, and letters issued. See Table 10.

2.6 Appellate Courts

Tables 11, 12, 13, and 14 show 1985 caseload activity in the appellate courts (excluding County Courts acting as appellate courts, for which caseload activity data were not currently available).

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[9] Supplementary petitions allege violations of the original order or are applications for modifications to the original order.

Table 9
PETITIONS FILED AND DISPOSED IN FAMILY COURT STATEWIDE
By Type of Petition
1985

Type of Petition	*Filings*	*Dispositions*[a]
Permanent Neglect	1,562	1,797
Child Protective (Neglect and Abuse)	14,399	14,713
Juvenile Delinquency	14,083	14,656
Designated Felony	582	673
Persons in Need of Supervision	11,530	12,543
Adoption	3,980	3,373
Guardianship	356	271
Supreme Court Referral	2,060	2,358
Custody of Minors	27,463	25,104
Foster Care Review	3,137	5,463
Approval of Foster Care Placement	4,924	4,807
Physically Handicapped	36,048	34,229
Mental Defective	0	160
Family Offense	41,224	38,455
Paternity	31,674	35,448
Support	37,800	40,386
Uniform Support of Dependents Law	21,193	19,264
Consent to Marry	237	369
Other	2,373	2,644
Supplementary	136,697	121,166
Total	391,322	377,879

[a] Petition type may change between filing and disposition.

Table 10
CASELOAD ACTIVITY IN SURROGATES' COURTS STATEWIDE
1985

Name of Proceedings By Case Type	Petitions Filed	Citations (Returnable)	Motions Ord. To Show Cause Filed	Guard AD Litem Appt'd.	Answers Objections Filed	Bonds		Trial Notes of Issue Filed	Orders Signed	Decrees Signed	Letters Issued	Misc.
						Bonds Filed	Dispensed with					
Probate	40,251	11,781	769	3,376	613	856	8,866	88	14,929	37,562	40,246	8,520
Administration	14,207	1,885	145	264	145	3,136	4,691	11	2,620	10,429	11,909	1,778
Accountings	5,947											
Informal Accts	(7,999)	5,127	368	1,525	643	97	840	63	3,314	5,490		30,368
Miscellaneous	7,250	1,722	655	405	246	244	308	44	6,223	2,118		1,239
Guardianship	13,032	1,211	113	343	35	141	2,546	2	7,768	6,526	6,524	675
Adoption	2,744	762	28	233	31			5	4,203		1,683	589
Estate Tax	14,661		201		17				15,256			1,716
Total (1-7)	106,091	22,488	2,279	6,146	1,730	4,474	17,251	213	54,313	62,125	60,362	44,885

Surrogate and Law Department:	
Number of Hearings Commenced by Surrogate	7,588
Number of Trials Commenced by Surrogate	1,326
Number of Conferences and Hearings	37,476
Number of Conferences on Legal Matters Commenced by Chief Clerk and Deputy Chief Clerk	45,787
Number of Examinations Held	3,084
Number of Written Decisions	12,960
Number of Opinions and Memoranda Issued	10,905
Small Estates:	
Number of Affidavits Filed	12,158
Number of Answers/Objections Filed	38
Number of Accountings Filed	2,980
Other:	
Number of Certificates Issued	507,240
Number of Annual Guardianship Accountings	15,160
Number of Wills Filed for Safekeeping	13,327
Number of Files Requisitioned	487,621
Number of Pages Certified	115,411
Number of Exemplifications	2,216
Number of Searches Completed	8,366
Number of Witnesses Examined by Clerk	7,416

Table 11
CASELOAD ACTIVITY IN THE COURT OF APPEALS
1985

Applications Decided (CPL 460.20 (3-b))	2,439
Records on Appeal Filed	675
Oral Arguments	721
Appeals Decided	719

Table 12
DISPOSITIONS OF APPEALS DECIDED IN THE COURT OF APPEALS
By Basis of Jurisdiction
1985

Basis of Jurisdiction	*Affirmed*	*Reversed*	*Modified*	*Dismissed*	*Other*	*Total*
All Cases:						
Reversal, Modification, Dissent in Appellate Division	284	69	7	17	0	377
Permission of Court of Appeals or Judge thereof	100	64	7	4	0	175
Permission of Appellate Division or Justice thereof	82	31	7	2	0	122
Constitutional Question	15	4	0	5	0	24
Other	16	3	0	2	0	21
Total	497	171	21	30	0	719
Civil Cases:						
Reversal, Modification, Dissent in Appellate Division	284	69	7	17	0	377
Permission of Court of Appeals or Judge thereof	34	38	5	1	0	78
Permission of Appellate Division or Justice thereof	44	19	5	0	0	68
Constitutional Question	15	4	0	5	0	24
Other	16	3	0	2	0	21
Total	393	133	17	25	0	568
Criminal Cases:						
Reversal, Modification, Dissent in Appellate Division	0	0	0	0	0	0
Permission of Court of Appeals or Judge thereof	66	26	2	3	0	97
Permission of Appellate Division or Justice thereof	38	12	2	2	0	54
Constitutional Question	0	0	0	0	0	0
Other	0	0	0	0	0	0
Total	104	38	4	5	0	151

Table 13
CASELOAD ACTIVITY IN THE APPELLATE DIVISIONS
1985

Activity	*First Department*	*Second Department*	*Third Department*	*Fourth Department*	*Total*
Records on Appeal Filed	3,552	4,109	1,538	1,092	10,291
Motions Decided	6,865	10,017	3,827	2,812	23,521
Oral Arguments	1,663	1,572	917	1,047	5,199
Appeals Decided:[a]					
Affirmed	2,828	2,644	1,182	922	7,576
Reversed, New Trial	326	546	204	207	1,283
Modified	278	318	143	150	889
Dismissed[b]	84	313	44	44	485
Other	277	0	38	62	377
Total	3,793	3,821	1,611	1,385	10,610
Admissions to Bar:					
Men	1,104	1,666	889	295	3,954
Women	784	912	292	141	2,129
Attorney Disciplinary Proceedings:					
Charges Dismissed	0	0	1	2	3
Censures	2	6	4	1	13
Suspensions	15	16	7	3	41
Struck from Roll (incl. Disbarments)	22	42	2	1	67
Reinstatements	0	4	5	2	11
Total	39	68	19	9	135

[a] Includes Art. 78 CPLR and original proceedings.

[b] Includes appeals dismissed or withdrawn before arguments or submission.

Table 14
CASELOAD ACTIVITY IN THE APPELLATE TERMS
1985

Activity	*First Department*	*Second Department*	*Total*
Source of Appeals Received:			
County Courts	0	21	21
Civil Court of the City of New York	584	373	957
Criminal Court of the City of New York	110	255	365
District Courts	0	592	592
Courts in Cities outside New York City	0	149	149
Town and Village Courts	0	309	309
Total	694	1,699	2,393
Motions Heard or Submitted	2,082	2,966	5,048
Dispositions of Appeals:			
Discontinued	37	19	56
Dismissed on Calendar Call under Rule 3 or 8 (Civil)	22	371	393
Dismissed on Calendar Call under CPL 460.70 (Criminal)	0	170	170
Remitted	3	0	3
Decided after Argument or Submission	547	494	1,041
Total	609	1,054	1,663
Decisions Rendered after Argument:			
Affirmed	267	235	502
Reversed	184	168	352
Modified	87	58	145
Dismissed, Discontinued, Withdrawn, or Remanded	9	33	42
Total	547	494	1,041
Opinions Filed	9	0	9
Per Curiam Opinions	364	456	820
Memoranda Written, Not Filed	183	0	183

2.7 Community Dispute Resolution Centers Program

Chapter 847 of the Laws of 1981 created the Community Resolution Centers Program. These centers have provided an alternative to court for the resolution of criminal and civil disputes.

Case intake in each center includes walk-in clients and referrals from courts and other agencies. Dispositions include cases conciliated without mediation, cases mediated, and cases arbitrated. Certain cases are determined to be inappropriate for mediation and are referred to other agencies.

In 1985, there were 77,870 cases received and 18,202 dispositions. Nearly 80% of the cases received were referred elsewhere. Table 15 shows the breakdown of intake and dispositions for each center.[10]

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[10] The program publishes an annual report with full details of caseload activity.

Table 15
COMMUNITY DISPUTE RESOLUTION CENTERS PROGRAM
Intake and Dispositions
1985

Program	*Intake*	*Dispositions*			
		Conciliations	*Mediations*	*Arbitrations*	*Total*
Albany Mediation Program	1,475	34	189	0	223
Allegany: Dispute Settlement Center	107	22	17	1	40
Broome: ACCORD	2,424	104	254	0	358
Cattaraugus: Dispute Stlmt. Center	69	17	22	1	40
Chautauqua: Dispute Stlmt. Center	485	27	84	6	117
Chemung: Neighborhood Justice Project	3,016	751	187	0	938
Columbia: Common Ground	480	35	72	5	112
Dutchess: Comm. Dispute Res. Center	899	35	114	0	149
Erie: Dispute Settlement Center	3,355	520	561	49	1,130
Franklin: Center for Conflict Res.[a]	2	0	1	0	1
Fulton/Montgomery/Schoharie Counties	207	33	71	0	104
Greene: Comm. Dispute Res. Center	160	4	2	0	6
Herkimer[a]	0	0	0	0	0
Jefferson: Comm. Dispute Res. Center	67	37	59	0	96
Lewis County Mediation Service	23	6	5	0	11
Livingston: Center for Dispute Stlmt.	951	4	53	0	57
Monroe: Center for Dispute Stlmt., Inc.	5,335	26	286	60	372
Nassau: Community Dispute Center	1,861	10	106	20	136
Nassau: Mediation Alternative Project	177	56	79	0	135
Niagara: Dispute Settlement Center	105	21	21	3	45
NY & Bronx: IMCR Dispute Res. Center	18,379	592	3,866	331	4,789
Kings & Queens: Victim Services Agency	14,623	232	5,395	0	5,627
Richmond: St. Is. Comm. Dispute Res. Center	4,612	65	338	1	404
NY: Washington Heights-Inwood Coalition	2,620	47	129	0	176
Oneida: Comm. Dispute Res. Program	550	135	122	0	257
Onondaga: Resolve-A Center for Dispute Settlement, Inc.	552	89	86	0	175
Onondaga: Dispute Res. Ctr. of the Volunteer Center, Inc.	2,568	55	223	0	278
Ontario: Center for Dispute Stlmt.	1,615	1	62	4	67
Orange Co. Mediation Project	495	61	185	2	248
Oswego: Resolve, Comm. Dispute Settlement	361	43	71	0	114
Otsego: Agree, Comm. Dispute Settlement	243	41	35	0	76
Putnam[a]	0	0	0	0	0
Rensselaer: Comm. Dispute Stlmt. Program	656	48	47	0	95
Rockland: Volunteer Mediation Center	651	7	53	0	60
Saratoga: Dispute Settlement Program	147	9	27	0	36
Schenectady: Comm. Dispute Stlmt. Program	552	41	47	0	88
Schuyler: Neighborhood Justice Project	199	45	34	1	80
Seneca: Center for Dispute Stlmt.[a]	1	0	0	1	1
Steuben: Neighborhood Justice Project	1,553	82	23	0	105
St. Lawrence: Center for Conflict Res.	140	41	28	0	69
Suffolk: Comm. Mediation Center, Inc.	2,310	74	490	1	565
Sullivan: Med. Srvcs. of Sullivan Co.	177	18	41	0	59
Tioga: ACCORD	1,271	67	56	0	123
Tompkins: Comm. Dispute Res. Center	371	69	46	0	115
Ulster: Mediation Srvcs. of Ulster Co.	401	85	148	1	234
Wayne: Center for Dispute Stlmt.	627	6	30	1	37
Westchester Co. Mediation Center	992	45	209	0	254
Wyoming: Dispute Settlement Center[a]	3	0	0	0	0
Yates: Center for Dispute Stlmt.[a]	3	0	0	0	0
Total	77,870	3,740	13,974	488	18,202

[a] These programs are in their developmental phase.

2.8 Standards and Goals

Since 1975, Standards and Goals of the Chief Administrator of the Court have provided performance measures for the courts for elapsed time to disposition for felony cases in the Supreme and County Courts, civil cases in the Supreme Courts, and for proceedings in the Family Courts.[11]

Felony Cases: The applicable standard is disposition within six months from filing of indictment, excluding periods when a case is not within the active management control of the court (e.g., warrant outstanding).

During 1985, 78% of felony case dispositions statewide were achieved within the six-month standard.

Civil Cases: The standard is disposition within fifteen months from the filing of a note of issue. During 1985, 78% of civil case dispositions statewide were achieved within this standard.

Family Court: The standard is case disposition within 180 days of the commencement of a proceeding, excluding periods when a case is not within the active management control of the court (e.g., warrant outstanding). During 1985, 97% of all dispositions were reached within the standard.

[11] See "Standards and Goals," memorandum of the Chief Administrator of the Courts of 2/28/79, containing revisions approved by the Administrative Board of the Courts on 1/25/79 to the Standards and Goals adopted in 1975.

Chapter 3

Education and Training Programs

Since 1962, over 33,000 judges and justices of New York State have attended seminars and training programs conducted by the Office of Court Administration. In 1985, total attendance at OCA-sponsored judicial programs reached 2,952, including 2,157 at town and village programs. In the area of nonjudicial training, 546 persons attended programs sponsored or financed by OCA in 1985.

3.1 Judicial Programs For State-Paid Judges

3.1.1 1985 Judicial Seminars

July 15 to 19, 1985
July 22 to 26, 1985
Buffalo, New York

The 1985 summer judicial seminars were again conducted at the Amherst Campus of the State University at Buffalo. Two similar week-long sessions were held for judges of all levels of State-paid trial courts. More than 650 judges attended.

3.1.1.1 Programs and Activities

As in prior years, Curriculum Development Committees met to determine course content and to select faculty in six areas of subject matter: evidence; civil law and procedure; criminal law and procedure; family law and procedure; Surrogates' matters; and judicial skills. With the exception of four representatives from the academic world, the Committees were made up entirely of State-paid judges.

The Committees devised a program of courses which were offered during the sessions. At any one time, the attending judges could select from among any of the four to six half-day courses conducted during each seminar period. The availability of options during each seminar period again proved to be one of the most attractive aspects of the sessions — judges could select their own curricula during the week, tailored to their own interests and needs.

Another benefit of the sessions was that they provided an otherwise unavailable opportunity for judges of different jurisdictions to meet and share experiences and viewpoints.

The faculty for these seminars was again made up largely of judges from New York who accepted the task of developing their topics and planning their courses and presentations as an addition to their normal judicial duties. Law professors, former judges, practicing lawyers, and professionals from other disciplines also added their talents to the faculty.

In addition to the twenty-four seminars conducted during the seminar periods, judges participated in five additional educational opportunities each week:

— Judges visited the Attica Correctional Facility.

— Other judges toured the Division for Youth's secure detention facility at Maston Park.

— Twenty to twenty-five judges were videotaped each week in mock courtroom situations and then met with a communications expert to review their judicial "style."

— Special computer rooms equipped with both Lexis and Westlaw Systems were made available from before breakfast until late in the evening for judges to receive instruction.

— All judges participated on the final morning in a plenary session introducing the new Individual Assignment System.

The Unified Court System again thanks the members of the faculty and the Curriculum Development Committees for their contributions to the Judicial Seminars and thanks the personnel of the State University at Buffalo for their continuingly gracious and efficient hosting of the seminars.

3.1.1.2 Curriculum Development Committees

Civil Law and Procedure
Honorable Maxine K. Duberstein
Honorable William L. Ford
Honorable Ira Gammerman
Professor Emeritus Milton Gershenson
Honorable Edward J. Greenfield
Honorable Robert A. Harlem
Honorable Irving Kirschenbaum
Honorable Harold E. Koreman
Honorable John C. Marbach
Honorable William P. McCooe
Professor David D. Siegel
Honorable Arthur Spatt
Honorable Andrew Tyler
Honorable William A. Walsh, Jr.
Honorable Robert E. White

Evidence
Honorable Matthew F. Coppola
Honorable Arnold G. Fraiman
Honorable Theodore S. Kasler
Honorable J. Robert Lynch
Honorable John A. Monteleone
Honorable Richard Lee Price
Dean Emeritus Jerome Prince
Honorable Leonard H. Sandler
Honorable Andrew V. Siracuse
Honorable Thomas M. Stark
Honorable Rene K. Uviller

Judicial Skills

Honorable J. Raymond Amyot
Honorable George Cobb
Honorable Dennis Edwards, Jr.
Honorable Harold L. Galloway
Honorable David T. Gibbons
Honorable Nat Hentel
Honorable Abraham Isseks
Honorable Theodore A. Kelly
Honorable Sybil Hart Kooper
Honorable Richard F. Kuhnen
Honorable Leon Lazer
Honorable William Ostrowski
Honorable Seymour Schwartz
Honorable Richard W. Wallach

Criminal Law and Procedure

Honorable Carol Berkman
Honorable Alain M. Bourgeois
Honorable D. Bruce Crew, III
Honorable Theodore Dachenhausen, Jr.
Honorable Samuel L. Green
Honorable Joseph Harris
Honorable Michael Juviler
Honorable Robert P. Kennedy
Honorable Peter J. McQuillan
Honorable Lorraine S. Miller
Honorable Burton Roberts
Honorable Ernst H. Rosenberger
Honorable Seymour Rotker
Honorable Marie G. Santagata

Family Law and Procedure

Honorable Arthur J. Abrams
Honorable Paul Cheeseman
Honorable Pearl B. Corrado
Honorable Leon Deutsch
Honorable Charles F. Graney
Honorable Richard D. Huttner
Honorable Mary Ann Killeen
Honorable Edward J. McLaughlin
Honorable M. Holt Meyer
Honorable Adrienne H. Scancarelli
Honorable Jack Turret
Honorable Charles Willis
Honorable Ruth Jane Zuckerman

Surrogate's Matters

Professor Joseph T. Arenson (Faculty Coordinator)
Honorable Evans V. Brewster
Honorable Willard W. Cass, Jr.
Honorable Bertram R. Gelfand
Honorable Irving Goldman
Honorable Edward M. Horey
Honorable John M. Keane
Honorable Louis D. Laurino
Honorable C. Raymond Radigan
Honorable Bernard L. Reagan

3.1.1.3 Seminar Topics

Voir Dire Procedure and Techniques
Medical Malpractice
Techniques of Conducting a Trial
Supression Hearing and Case Law Updates
Proper Procedure in Wrongful Death Compromise/Account
Effective Judicial Writing
Public Speaking Pointers for Judges
Family Dynamics of Sexual Abuse: The Court's Role
Selected Topics in the Law of Cooperative and Condominium Conversions
Child Witnesses
Admissibility of Police Reports, Hospital Records, Statements, MV104's, X-Ray Reports, Videotapes, Tape Recordings, Computer Records, Photographs, Textbooks and Summaries (Schedules), Etc.
Litigation in Surrogate's Court
The Nature of Hearsay and Selected Exceptions to the Hearsay Rule (two-session course)
Current Issues in Equitable Distribution
Selected problems for a Criminal Trial Judge (three-session course)
Proposed Rules and Forms for the Surrogate's Court and Recent Legislation Regarding the Surrogate's Court
Proceedings to Discover Property of a Decedent
Disqualification of a Spouse From Inheritance or Sharing in a Wrongful Death Recovery by Reason of Abandonment
Recent Developments in Torts and Products Liability
Intestacy Joint Bank Accounts and the Right of Election
Selected Problems and an Update in Civil Practice
An Introduction to Judicial Use of the Computer
Selected Tax Aspects of Surrogate's Practice
The Individual Assignment System (Plenary session)

3.1.1.4 Faculty

Honorable Morris Aarons
Professor Joseph T. Arenson
Honorable Harold Baer, Jr.
Honorable George J. Balbach
Associate Dean Robert A. Barker
Honorable James D. Benson
Honorable Bernard M. Bloom
Honorable Lawrence J. Bracken
Honorable Alan Broomer
Honorable John T. Buckley
Honorable William J. Burke
Honorable John P. Collins
Honorable George D. Covington
Raymond F. Crapo
Honorable D. Bruce Crew III
Honorable Patrick J. Cunningham
Honorable William Deeley
Honorable Michael J. Dontzin
Honorable Maxine K. Duberstein
Honorable Frederick D. Dugan
Honorable Dennis Edwards, Jr.
Honorable Fred W. Eggert
Professor Richard T. Farrell
Honorable Lawrence J. Finnegan, Jr.
Professor Elizabeth A. Francis
Honorable Bernard J. Fried
Honorable William D. Friedmann
Honorable Ira Gammerman

Honorable Bertram R. Gelfand
Professor Emeritus Milton G. Gershenson
Honorable David Gilman
Marion H. Goldberg
Honorable Howard E. Goldfluss
Honorable Irving Goldman
Honorable Walter T. Gorman
David S. Gould, Esq.
George R. Grasser, Esq.
Honorable Joseph Harris
Professor Kenneth F. Joyce
Honorable Michael R. Juviler
Honorable Solomon Katz
Honorable John M. Keane
Honorable Marie M. Lambert
Honorable Irving Lang
Honorable Louis D. Laurino
Honorable Howard E. Levitt
Honorable Sheldon Levy
Bart Lubow
Honorable Joseph P. McCarthy
Honorable William P. McCooe
Honorable Millard L. Midonick
John R. Migenes, Ph.D.
Honorable Lorraine S. Miller
Honorable Patrick D. Monserrate
Honorable John A. Monteleone
Honorable Stuart Noamm
Honorable Aldo A. Nastasi
Professor Peter J. O'Connor
Robert M. Pitler, Esq.
John J. Poklemba, Esq.
Honorable Richard Lee Price
Dean Emeritus Jerome Prince
Honorable C. Raymond Radigan
Honorable Jerome L. Reinstein
Honorable David S. Ritter
Honorable Burton B. Roberts
Dean Patrick J. Rohan
Honorable Peter P. Rosato
Richard N. Ross
Honorable Seymour Rotker
Honorable Israel Rubin
Honorable Marie G. Santagata
Honorable David B. Saxe
Honorable Sara P. Schecter
Honorable Henry J. Scudder
Professor Thomas F. Shea
Professor Stuart Jay Sigman
Honorable Samuel J. Silverman
Honorable Robert J. Sise
Honorable Stanley L. Sklar
Honorable Lyman H. Smith
Honorable Arthur D. Spatt
Karen L. Spencer
Honorable Joseph P. Sullivan
Honorable Michael A. Telesca
Honorable Lawrence J. Tonetti
William M. Troyan
Honorable Richard D. Wallach
Honorable Milton L. Williams
Honorable Norman L. Wolf, Jr.
Honorable Edmund B. Wutzer

3.1.2 Permanency Planning Seminar

September 18 to 20, 1985

A conference examining the foster care process was conducted for judges on September 18 to 20, 1985 at Saratoga Springs. Seventy-four judges from New York, mostly from the Family Court, attended the meeting. A faculty of twenty-nine people representing six states made presentations or conducted workshops during the two days.

The topics dealt primarily with the prevention of out-of-home placement; family preservation and reunification; foster care plans and review; use of volunteer services; and termination of parental rights.

The conference was designed by the Task Force on Permanency Planning and was conducted with the assistance and financial support of the National Council of Juvenile and Family Court Judges and the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

3.1.3 Family Court Hearing Examiners Seminar

October 30 to 31, 1985

Seventy hearing examiners, appointed to three year terms commencing November 1, 1985, attended two full days of intensive training in Albany.

Courses included the law of support, orders and enforcement of orders based on potential income, the conduct of a hearing, forms and rules, preserving the record with audio recording equipment and evidence. A discussion of unified court system benefits concluded the program.

3.1.4 Individual Assignment System Seminars

December 19, 1985
December 20, 1985

The announcement of an individual assignment system for the State's trial courts effective January 6, 1986 created the need for seminars to introduce the new case management policy.

Brooklyn Law School served as the location for a meeting of 260 Criminal Term Part Clerks on December 19 and 170 Civil Term Part Clerks on December 20. In attendance on December 19, at a similar meeting held at Supreme Court, Kings County were Justices of the Supreme Court, Civil Terms and their Law Clerks. The combined attendees numbered 200. On December 20, 300 Justices of the Supreme Court, Criminal Term and their Law Clerks attended.

The mornings were devoted to plenary sessions consisting of a discussion of the uniform rules, mechanics of IAS, calendar and motion part skills and running an IAS part. Individual borough meetings took place during the afternoon.

3.1.5 Orientation Seminar For New Judges

December 2 to 6, 1985

The annual Orientation Program for Newly-Elected and Newly-Appointed Judges was held on December 2-6, 1985 in Manhattan. Forty-four new judges attended this week-long program, which consisted of lectures on evidence, the trial judge's role, the New York State Employees Retirement System, criminal procedure, the Bench Book for Trial Judges, civil law and procedure, the administration of jurors, the role of the court reporter, inter-court relations and administrative structure, substantive criminal law, pattern jury instructions, judicial conduct, courts and the community and public perceptions, equitable distribution and a special session for new Family Court Judges.

3.1.6 Other Judicial Programs

In addition to the programs described above, various courts, districts, and judicial departments conducted educational sessions for their sitting judges and orientation programs for their new judges in 1985. Judicial associations, at their annual meetings, also provided substantial educational programs for their members.

3.2 Town and Village Justice Training Program

There are approximately 2300 Town and Village Justice positions in New York State. Because of vacancies and because some judges hold more than one position, approximately 2050 individuals hold the office of Town or Village Justice. Roughly eighty percent of these are not admitted to practice law in the State. New justices who are not attorneys are required to successfully complete a six-day basic certification course covering the fundamentals of law and their responsibilities as judges. The basic course was presented once in Canton and twice each in Albany, Syracuse and Buffalo in 1985. A total of 195 judges attended.

Since 1984, all Town and Village Justices must attend an advanced continuing judicial education program each year. In addition to the attendance requirement, all non-lawyer Town and Village Justices must pass an examination at the program.

The advanced course consists of two days of instruction covering selected legal topics. The curriculum in 1985 included sentencing, arraignments, civil substantive law, the transportation of hazardous materials, new legislation and (depending upon course location) either the Environmental Conservation Law or dangerous dogs and the licensing of dogs.

In order to maintain the accessibility of the advanced course to the justices, programs were held in 31 locations around the state.

Nearly 130 judges, attorneys, and administrative personnel enlisted to act as faculty and to administer the schedule. Faculty were trained in two sessions conducted in Syracuse. Judges earned advanced certification for 1,989 judicial positions.

The Unified Court System is grateful to all of those who provided their time, energy and skill in successfully establishing and implementing this program, and particularly to the senior faculty members, the Honorable Eugene W. Salisbury, the Honorable Duncan S. MacAffer, and the Honorable John J. Elliott, for their efforts in training the faculty as well as for their continuing coordination of the basic courses.

Thanks are due to the following individuals for instructing at and administering the 1985 advanced courses.

Anthony F. Aloi, Esq.
Hon. John J. Ark
Hon. Stephen D. Aronson
Lt. Richard S. Banker
Trooper Donald Barker
Ms. Alison Barnes
Hon. William C. Barrett
Hon. Sherwood L. Bestry
Ms. Loralee Brandow
Richard J. Brickwedde, Esq.
Hon. Edmund S. Brown, Jr.
Michael J. Brown, Esq.
Ms. Carolyn Burke
Peter J. Burke, Esq.
Hon. Helen Burnham
Peter Bush, Esq.
Hon. John P. Callanan, Sr.
Paul J. Cambria, Jr., Esq.
Hon. Samuel J. Castellino
Hon. Luke M. Charde, Jr.
James Charles, Esq.
Hon. James J. Clynes, Jr.
Ms. Bonnie Coburn
Stephen R. Coffey, Esq.
Major Carl Colberg
Malcolm Coutant, Esq.
Hon. Robert W. Coutant
Sgt. John V. Currie
George E. Curtis, Esq.
Hon. William A. Danaher, Jr.
Mr. Paul De Amato
Hon. Brian F. De Joseph
Trooper Thomas W. De Prez
Ms. Louise Dobozin
Joseph Donovan, Esq.
Hon. Robert F. Doran
Hon. James F. Dwyer
James K. Eby, Esq.
Mr. David Egelston
Hon. David S. Eldredge
Hon. John J. Elliott
Richard D. Enders, Esq.
Richard Farina, Esq.
James T. Foody, Esq.
Joseph E. Fox, Jr., Esq.
Hon. John Frucco
Peter Gerstenzang, Esq.
Hon. Thomas E. Goldman
Hon. Nicholas J. Greisler
Mr. Roy Hall
Hon. Herman Harding
Lawrence D. Hassler, Esq.
Hon. Shirley B. Herder
Hon. J. Radley Herold
Mr. Ralph Hesson
Ms. Kathleen Hettrick
Mr. Joseph R. Hughes
Hon. Hugh C. Humphreys
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Hon. Angelo J. Ingrassia
Trooper John J. Kelly
Hon. Robert Kelly
Hon. Mardis F. Kelsen
Hon. George S. Kepner, Jr.
Hon. J. Craig Kerr
Hon. David B. Krogman
Trooper Dale R. Kupfer
Trooper Albert S. Kurek
Hon. Lawrence J. La Belle
Hon. Kenneth H. Lange
Hon. Harold Lieberman
Charles Livingston, Esq.
Hon. Duncan S. Macaffer
Hon. Ralph R. Mackin
Hon. George D. Marlow
Mr. Lamont Martin
William J. McCluskey, Esq.
Ms. Donna R. McCullough
Hon. Timothy K. McCusker
Hon. Jeffrey R. Merrill
Ms. Sue Miller
David F. Mix, Esq.
Trooper Vincent J. Mollow
Hon. Patrick D. Monserrate
Hon. James E. Morris
Mr. Clarence Moser
Kevin Moss, Esq.
Martin Muehe, Esq.
Ms. Colleen G. Murphy
Hon. Edward L. Nadeau
Mr. Richard M. Nells
Hon. William F. O'Brien III
Mr. Russell Oechsle
Hon. Mario J. Papa
Ms. Ann M. Parke
Hon. Richard M. Parker
Sgt. James J. Parmley
Paul Pelky, Esq.
Hon. Jan H. Plumadore
Hon. William H. Price, Jr.
Renee L. Renzi, Esq.
Hon. Dennis L. Repka
Hon. Michael J. Riccio
Raymond B. Roberts, Esq.
Hon. Charles G. Rose
Larry J. Rosen, Esq.
Hon. Albert M. Rosenblatt
Edward Rowley, Esq.
Benjamin Russell, Esq.
Hon. Stephen A. Safranko
Hon. Eugene W. Salisbury
Hon. Frank J. Santagata
Mr. Joseph Sarno
Hon. Stephen P. Scaring
Hon. Nettie J. Scarzafava
James T. Scime, Esq.
Norman Seiter, Esq.
Trooper Michael T. Shamulka
Ms. Lois I. Sink
Ms. Donna Srnka
Hon. John Steinfeld
Mr. David L. Sullivan
Hon. Eugene F. Sullivan, Jr.
Hon. Irving Tenenbaum
Hon. Herman H. Tietjen
Hon. Judith K. Towsley
Hon. Joseph J. Traficanti, Jr.
Louise Tucker, Esq.
John E. Tyo, Esq.
Hon. Matthew J. Vitanza
David Wallace, Esq.
Hon. John J. Walsh
Lt. David C. Wayman
Todd Weber, Esq.
Hon. Eleanor Wertimer
Hon. John P. Wilgus
Hon. Frank B. Williams
Mr. Brian Winslow
Hon. Richard A. Wittenburg
Hon. Robert P. Wylie
Hon. Frank E. Yannelli

3.3 Nonjudicial Programs

Programs presented or sponsored by the Office of Court Administration were attended by 546 employees during 1985.

Commissioners of Jurors Annual Seminar

May 5 to 8, 1985

A discussion and evaluation of the Uniform Rules of the Jury System, which rules were scheduled to take effect on October 1, 1985, led off the seminar at Lake George. This was followed by a session on the development of a statewide juror qualification questionnaire, a report by the Jury Management Advisory Committee, a discussion of proposals to allow the use of administrative remedies instead of contempt of court, and a presentation by representatives of Court Information Services on the Jury Management System.

Law Librarians Annual Seminar

May 6 to 8, 1985

A major topic at the Law Librarians Annual Seminar, held in Rensselaerville in 1985, was automated library operations. It covered several topics, including how to move into automated operations, how the Buffalo law library experienced going "online" and a comparison of automated legal research systems. This was followed by video presentations on manual and computer assisted legal research. Seminar participants were encouraged to try a hands-on approach to computer and video terminals which had been set up for use. After these initial sessions, individual seminar participants spent a great deal of time testing, discussing and inspecting video and computer terminals and related equipment. The main purpose of the seminar was to examine use of automated law library systems. A panel discussion was subsequently held by those using highly automated libraries.

OCA's Personnel Office then made a major presentation on their policies, on career planning and examinations. This was followed by an extensive question-and-answer period. The Office of Budget and Finance then made a presentation on how to prepare library budgets for the coming fiscal year.

Participants could later choose among workshops on basic library operations or legislative services. A computer assisted legal research terminal was available at all times for those who wished to try using it.

Additional presentations and workshops were held on the subjects of the Regional Law Library proposal and its implementation in the fifth Judicial District, purchase plans for computers and assistance available from several units of the Office of Court Administration.

Surrogate's Law Association Annual Seminar

June 12 to 14, 1985

This seminar, conducted at Ellenville, New York, once again set another attendance record. Unlike the groups at other seminars, the members of the Surrogate's Law Association do not deal with administrative or fiscal matters. The agenda consists of a number of cases and matters to which discussion leaders are assigned. Sixteen major cases and issues were presented and discussed by the entire group in an open forum style chaired by the member or members who had prepared to handle each particular case. In addition, three guest speakers also made presentations, followed by a vigorous question and answer period. There was also a discussion of proposed legislation affecting the Surrogates' Courts.

Supreme and County Court Clerks Annual Seminar

July 28 to 31, 1985

The Supreme and County Courts Clerks met this year at Alexandria Bay. An update of the procedures manual was one of the first items on the seminar agenda. A presentation on fines, bail and surcharge collection was followed by a panel discussion of CPLR 330.20. OCA Counsel's Office provided a presentation updating recent legislation affecting the clerks of the Supreme and County courts. "New Directions in the State Court System" provided a comprehensive summary and explanation of new procedures in docketing, recordkeeping and the application of computers in the courts.

The seminar also included an address by the Chief Administrative Judge emphasizing the continued cooperation between clerks and the Office of Court Administration, and the importance of the continued professional development of the clerks. Also, included in the program was the annual open forum, where panelists respond to any type of question involving the operation of Supreme and County Courts.

City Court Clerks, Annual Seminar

September 3 to 5, 1986

The attendees at this seminar consist of the clerks of the sixty-one City Courts outside the City of New York and the clerks of the Police and Traffic Courts. The group maintained its record of having the largest attendance of all the seminars of this type. The program started with a future training needs assessment. Following that, a presentation on new directions in court management focused on a relatively new cash register/accounting system that had been introduced recently to several City Courts. A workshop on career and life planning was conducted by a faculty of three, including two recently retired clerks of City Court. "Understanding the City Court Act" was offered simultaneously, giving a choice of workshops to attendees.

An address on the state of the courts informed the clerks on what the major issues and concerns are of top management at OCA. Workshops were held on the topics of case transfers between superior and inferior courts, union contract procedures and the Self-Awareness Profile, a personal assessment. An overview of legislation applying to the city courts, the City Court Clerks Procedures Manual update committee report, and a debriefing of the training needs analysis from the first session rounded out the program.

Chief Clerks of Surrogates' Courts Annual Seminar

September 11 to 13, 1985

Amherst, in the Buffalo area, was chosen as the seminar site this year. New legislation affecting the Surrogates' Courts and a discussion of the Uniform Rules led the list of topics presented. A representative of the New York State Employee Health Insurance unit clarified many issues for the clerks and that was followed by a similar presentation from the New York State Employees Retirement System. The topic of computers and their application to the Surrogates' Courts, which was the main theme of this group's 1984 annual seminar, was continued and reinforced with a new presentation and some hands-on experimentation.

Ancillary Proceedings, an open roundtable discussion on any matters — legal, fiscal, administrative — of interest to the clerks and an address on the goals and theme for next year's seminar concluded the program.

Family Court Clerks Annual Seminar

September 18 to 20, 1985

The Family Court Clerks again chose Ellenville as their seminar site. The Family Court Clerks Procedures Manual update was the first topic discussed. The clerks were walked though the changes that had been made as a result of their input and new legislation during the past year. An exposition on retirement system benefits was followed by a major presentation on IV-D cases from both a federal and state perspective, with panelists from the Federal Support Enforcement Agency, the N.Y. State Department of Social Services, the University of Maryland School of Law and the American Bar Association conducting the discussion.

The theme then switched to court management with presentations entitled: "Recent Development in Court Management" and "But What Does the Brain Have to do With Running a Court?" The seminar finished with a general assembly meeting, consisting of an address by the group president and an open forum and finally a key presentation on recent Family Court Legislation.

Employee Development Programs

Twenty five employees attended a workshop on time management held in Mineola on March 1st.

Chapter 4

Legislation and Rule Revision

Legislation

The Office of Counsel is the principal representative of the Unified Court System in the legislative process. In this role, it is responsible for developing the Judiciary's legislative program and for providing the legislative and executive branches with analyses and recommendations concerning legislative measures that may have an impact on the courts and their administrative operations. It also serves a liaison function with bar association committees, judicial associations and other groups, public and private, with respect to changes in court-related statutory law.

Deputy Counsel staff the Chief Administrator's advisory committees on civil practice, criminal law and procedure and family law. These committees formulate legislative proposals in their respective areas of concern and expertise for submission to the Chief Administrator. When approved by the Chief Administrator, they are transmitted to the Legislature, in bill form, for sponsors and legislative consideration.

Each advisory committee also analyzes other legislative proposals during the legislative session. Recommendations are submitted to the Chief Administrator, who, through his Counsel, communicates with the Legislature and the Executive on such matters in the form of legislative memoranda and letters to Governor's Counsel.

Counsel's Office also is responsible for drafting legislative measures required by the administrative office for the courts, including budget requests, adjustments in judicial compensation and measures to implement collective bargaining agreements negotiated with court employee unions pursuant to the Taylor Law. In addition, Counsel's Office analyzes other legislative measures that have potential impact on the administrative operation of the courts and makes recommendations to the Legislature and the Executive on such matters.

In the discharge of its legislation-related duties, Counsel's Office consults frequently with legislators, the professional staff of legislative committees and the Governor's Counsel for the purposes of generating support for the Judiciary's legislative program and providing technical assistance in the development of court-related proposals initiated by the executive and legislative branches.

During the 1985 legislative session, Counsel's Office, in conjunction with the advisory committees, prepared and submitted fifty-six measures for legislative consideration. These measures were introduced during the session and, ultimately, twenty were enacted into law. All but three of the remaining measures will be carried over for consideration during the 1986 legislative session. Also during the 1985 session, Counsel's Office furnished Counsel to the Governor with analyses and recommendations on 110 court-related measures awaiting executive action, while the Legislature was supplied with written legislative memoranda on 194 measures.

The following is a summary of the measures submitted for introduction in the Legislature in 1985 at the request of the Office of Court Administration:

Measures Enacted Into Law in 1985

Chapter 10 (Senate bill 3166-A). Appropriates funds from a federal grant awarded to the Unified Court System for a judicial records disposition project. Eff. 4/1/85.

Chapter 91 (Assembly bill 5782-A). Amends Article 21-A of the Judiciary Law to increase the monetary ceiling on awards that may be rendered by mediation centers under contract with the Community Dispute Resolution Centers Program, from $1,000 to the monetary jurisdiction of the small claims part of Justice Court. Eff. 5/14/85.

Chapters 173 and 467 (Assembly bill 6961-A; S.6405). Amends section 270.15 of the Criminal Procedure Law to require trial judges to assume more active roles in the *voir dire* of a criminal case, and to permit judges to use a questionnaire, to be developed by the Office of Court Administration in consultation with the Administrative Board, to solicit basic background information from prospective jurors. Eff. 11/1/85.

Chapter 218 (Senate bill 3380-A). Amends section 434 of the Judiciary Law to revise the schedule for the letting of bids for the publication of the Official Law Reports by the State Reporter. Also, clarifies that judges receiving copies of such Reports, at public expense, may use them only while in office and must leave them for the use of their successors. Eff. 6/18/85.

Chapter 226 (Senate bill 4264). Amends the Judiciary Law and the Civil Practice Law and Rules (CPLR) to conform the provisions thereof to the dictates of the Court of Appeals' decision in *Matter of Gordon (viz.*, holding that the imposition of a residency requirement for persons seeking admission to the New York Bar is unconstitutional). Eff. 6/18/85.

Chapter 237 (Assembly bill 2193-A). Amends section 140.50(2) of the Criminal Procedure Law to authorize any peace officer who provides security services for any court of the Unified Court Sytem to exercise a limited power to stop and frisk in or about the courthouse. Eff. 11/1/85.

Chapter 253 (Senate bill 2019). Amends section 7502 of the CPLR to authorize a court to permit resort to the provisional remedies of attachment and preliminary injunction in conjunction with arbitration under Article 75. Eff. 1/1/86.

Chapter 315 (Senate bill 5161-A). This chapter incorporates two measures and amends section 35 of the

Judiciary Law and Article 18-B of the County Law to increase the rates paid State-paid assigned counsel and law guardians and locally-paid assigned counsel, from $15/hour to $25/hour for out-of-court work and from $25/hour to $40/hour for in-court work. Eff. 7/11/85; but section 3 relating to compensation for locally-paid assigned counsel not effective until 1/1/86.

Chapter 340 (Assembly bill 6043). Amends section 298 of the Executive Law to provide that petitions for judicial review of orders of the State Commissioner of Human Rights and the State Division of Human Rights shall be made to Supreme Court in most cases. Eff. 7/16/85.

Chapter 421 (Senate bill 3100). Amends section 700.60 of the Criminal Procedure Law to eliminate its requirement that an eavesdropping warrant report be filed with the Office of Court Administration. Eff. 7/19/85.

Chapter 477 (Senate bill 6697). Implements collective bargaining agreements between the State and public employees unions representing certain nonjudicial court employees, authorizing pay increases, increments and bonuses. Also authorizes pay increases, increments and bonuses for unrepresented nonjudicial court employees, as well as certain special managerial/confidential benefits. Eff. 7/19/85; but deemed in effect from 4/1/85.

Chapter 516 (Senate bill 4444). Amends section 270.15 of the Criminal Procedure Law to permit a criminal court to remove sworn jurors from the jury box during *voir dire*, without consent of counsel. Eff. 11/1/85.

Chapter 517 (Senate bill 4445). Amends section 190.90 of the Criminal Procedure Law to substitute the word "reversal" for the word "affirmance" in provisions relating to the unsealing of grand jury reports. Eff. 11/1/85.

Chapter 620 (Senate bill 4014). Amends section 39 of the Judiciary Law to repair an incorrect statutory cross-reference in the provision governing remittance of index number fees by county clerks. Eff. 7/28/85; but deemed in effect from and after 4/1/83.

Chapter 703 (Senate bill 4019-A) Amends section 106 of the Uniform Justice Court Act, adds section 107 to the Uniform City Court Act and repeals section 12-b of the Judiciary Law to authorize the Chief Administrator to order temporary assignments of town and village justices and city court judges, provided any such assignment is to a court within the judges' county of residence or any geographically adjoining county in the same judicial district. Eff. 8/1/85.

Chapter 730 (Senate bill 5650-A). Amends sections 264 and 468-a of the Judiciary Law to increase the attorney registration fee from $50.00 to $100.00 biennially. Also makes technical changes to enhance implementation of the attorney registration statute and to clarify its applicability. Eff. 1/1/86.

Chapter 926 (Senate bill 6772). Amends chapter 447 of the Laws of 1985, which implements certain collective bargaining agreements, in relation to bonuses. Eff. 12/20/85; but deemed in effect from 4/1/85.

Chapter 927 (Senate bill 6773). Implements collective bargaining agreements between the State and public employee unions representing certain nonjudicial court employees authorizing pay increases, increments and bonuses. Eff. 12/20/85 but deemed in effect from 4/1/85.

Chapter 928 (Senate bill 6776). Amends section 212(2) of the Judiciary Law to add a new paragraph (h) authorizing the Chief Administrator to formulate, establish and maintain plans to encourage and reward unusual and meritorious suggestions and accomplishments of employees and retired employees. Eff. 12/20/85.

Measures Carried Over to 1986

Senate 2086/Assembly 4172. This measure would amend the CPLR to increase the fees given to subpoenaed witnesses.

Senate 2087/Assembly 3754. This measure would amend the CPLR to clarify the process preliminary to transfer of an Article 78 proceeding from the Supreme Court to the Appellate Division.

Senate 2088/Assembly 5738. This measure would amend the CPLR to provide that a court must determine if notice is practicable and would not defeat the purpose of a temporary restraining order prior to granting an application for such order.

Senate 2246/Assembly 3596. This measure would repeal section 5250 of the CPLR relating to the civil arrest of judgment debtors.

Senate 2089. This measure would increase the amount of costs awardable in an action, on a motion and on appeals to the Appellate Division and the Court of Appeals.

Senate 2647/Assembly 3020. This measure would amend the CPLR to clarify, improve and relocate the provisions that mandate that a notice of default judgment in a consumer credit transaction must be served on a defendant who is a natural person.

Senate 2018/Assembly 2890. This measure would amend the CPLR to provide that issues of fact that arise upon an application to compel or stay arbitration shall be tried by the court without a jury.

Senate 2090/Assembly 3019. This measure would amend the CPLR to improve procedures governing the use of bills of particulars.

Senate 5527/Assembly 4115. This measure would amend the CPLR to require hospital records submitted in response to a subpoena to be full-sized, legible copies.

Assembly 3021. This measure would amend the CPLR to provide for a two-year statute of limitations for actions to recover damages from toxic or harmful substances or hazardous wastes, with such statute to run from the time when a plaintiff discovers or could have discovered the injury.

Senate 2213/Assembly 3102. This measure would amend the CPLR to make material changes in the procedures governing disclosure.

Assembly 6598. This measure would amend the Vehicle and Traffic Law to provide that a fine for violating the mandatory seat belt law provisions relating to restraint of children under age 4 may be waived only where the court receives proof that a child seating system has been purchased or rented since the date of the violation.

Senate 3107/Assembly 5740. This measure would amend the Court of Claims Act to extend the time period during which the Governor is authorized to fill nineteen new judgeships created by chapter 500 of the Laws of 1982.

Senate 1151/Assembly 5859. This measure would amend the Family Court Act and the Education Law to remove from Family Court its remaining jurisdiction over the special educational needs of handicapped children.

Senate 5164/Assembly 6884. This measure would amend the Family Court Act to correct technical errors in certain provisions relating to juvenile delinquent and PINS proceedings.

Senate 4020/Assembly 732. This measure would amend the Family Court Act to authorize the court in delinquency proceedings to hold a consolidated dispositional hearing where more than one delinquency petition has been filed against a respondent.

Senate 5460/Assembly 3201. This measure would amend the Criminal Procedure Law to provide that permission to appeal to the Court of Appeals from an order of an appellate division may not be sought from a justice who did not participate in the determination.

Senate 6446/Assembly 6165. This measure would amend the Criminal Procedure Law to authorize conditional examinations of witnesses where there is a showing of an attempt to induce the witness to be absent and to permit the use of prior testimony given at any pretrial hearing when all statutory conditions are met.

Assembly 6084. This measure would amend the Criminal Procedure Law to clarify that a grand jury witness does not receive immunity by reason of giving identification evidence of a nontestimonial character that the witness would have no constitutional privilege to withhold.

Assembly 6161. This measure would amend the Criminal Procedure Law to authorize a court to permit a deliberating jury to separate temporarily.

Senate 4441/Assembly 6232. This measure would amend the Criminal Procedure Law to establish a procedure for obtaining a warrant of arrest prior to the commencement of a criminal action.

Senate 4394/Assembly 6163. This measure would amend the Criminal Procedure Law to permit a court to require the defendant to provide nontestimonial evidence in a case where a felony or misdemeanor complaint is pending.

Senate 4443/Assembly 7696. This measure would amend the Criminal Procedure Law to provide that alternate jurors may be discharged after a jury retires for deliberations, unless defendant consents in advance to replacement of a juror by an alternate juror should the need therefor arise.

Senate 4706/Assembly 6597. This measure would amend the Vehicle and Traffic Law to extend to all judges of local criminal courts outside New York City the authority to entertain applications for an order compelling a driver to submit to a chemical test to ascertain the alcoholic or drug content of his or her blood under certain circumstances.

Senate 5334. This measure would amend the Criminal Procedure Law to reduce the allotted number of peremptory challenges available in criminal cases.

Assembly 698. This measure would amend the Criminal Procedure Law to establish statutory guidelines for the use of video electronic surveillance as an extraordinary means of obtaining evidence of criminal activity.

Senate 4714/Assembly 6164. This measure would amend the Criminal Procedure Law to permit the Court of Appeals to review an unpreserved question of law decided by an appellate division as a matter of discretion in the interest of justice.

Senate 4395/Assembly 6166. This measure would amend the Criminal Procedure Law to clarify that a defendant in a criminal case may not have the question whether his confession was obtained in violation of his rights under *Miranda* v. *Arizona* submitted to the jury.

Senate 4446/Assembly 7699. This measure would amend the Criminal Procedure Law to establish a procedure whereby an indictment may be amended prior to retrial to charge lesser included offenses of counts that have been disposed of at the first trial, whether or not such lesser included offenses were submitted to the jury at the initial trial.

Senate 4656/Assembly 7700. This measure would amend the CPLR to provide that a party may not withdraw a demand for trial by jury without the consent of the other parties, regardless whether another party previously filed a note of issue without a demand for trial by jury.

Senate 4822/Assembly 7344. This measure would amend the General Obligations Law in relation to release or covenant not to sue.

In addition to the foregoing, the Chief Administrator sent to the Legislature a proposal that was not introduced in 1985 but will be carried over to 1986. It is a measure to amend the Penal Law to establish the affirmative defense of temporary possession of a weapon.

Rule Revision

Numerous constitutional and statutory provisions require the Chief Judge and Chief Administrator to promulgate rules affecting the operation of the courts. Rules of the Chief Judge are promulgated after consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals. Rules of the Chief Administrator of the Courts are promulgated as follows: administrative and trial court calendar rules, after consultation with the Administrative Board of the Courts; rules of judicial conduct, with the approval of the Court of Appeals; and trial court rules of practice and procedure, with the advice and consent of the Administrative Board of the Courts.

Rules of the Chief Judge

The following rules were adopted, amended or repealed by the Chief Judge during 1985:

Part 8 of the Rules of the Chief Judge (22 NYCRR Part 8), relating to the assignment of counsel, psychiatrists and physicians, was repealed, effective October 15, 1985, and the subject matter became governed by new Part 127 of the Rules of the Chief Administrator of the Courts, adopted effective October 15, 1985.

Part 9 of the Rules of the Chief Judge (22 NYCRR Part 9), relating to the filing and publication of rules and regulations, was amended, effective November 20, 1985, to simplify and clarify the provision.

Subdivision (a) of section 28.12 of the Rules of the Chief Judge (22 NYCRR 28.12(a)), relating to the alternative method of dispute resolution by arbitration, was amended, effective April 24, 1985, to provide that the time to serve a demand for a trial *de novo* is within 30 days after service of the notice of filing the award with the clerk, or within 35 days of such service if the service was made by mail.

Subdivision (a) of section 29.1 of the Rules of the Chief Judge (22 NYCRR 29.1), relating to the electronic recording and audio-visual coverage of court proceedings, was amended, effective May 3, 1985, to delegate to the Chief Administrator or designee the authority to grant permission for taking photographs, films or videotapes in or of a courtroom, audiotaping in a courtroom, broadcasting from a courtroom and telecasting in or of a courtroom, with respect to trail courts, and to establish standards for the granting of such permission.

Part 31 of the Rules of the Chief Judge of the State of New York (22 NYCRR Part 31), relating to the appointment of hearing examiners in the Family Court, was repealed, effective November 1, 1985. This matter became governed by Part 2504 of the Family Court Rules (22 NYCRR 2504), adopted by the Chief Administrator of the Courts, also effective on November 1, 1985, subsequently superseded by Article 4 of the Uniform Family Court Rules (22 NYCRR 205.30 - 205.41), which became effective on January 6, 1986.

Part 33 of the Rules of the Chief Judge (22 NYCRR Part 33), relating to the temporary assignment of justices and judges, was amended, effective June 28, 1985, to provide for new procedures for such assignments, eliminating the previous special procedures for Acting Justices of the Supreme Court in the City of New York which required screening by an Acting JSC Advisory Committee.

Part 35 of the Rules of the Chief Judge (22 NYCRR Part 35) was adopted, effective October 9, 1985, to require the Chief Administrator to develop methods to reduce trauma to child witnesses and to establish training and education programs concerning treatment of child witnesses.

Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), was adopted to take effect on April 1, 1986, to provide standards for the appointment of fiduciaries by the courts and to provide for a list of qualified persons to be maintained by the Chief Administrator from which appointments may be made.

Rules of the Chief Administrator of the Courts

The Uniform Rules for the Trial Courts were adopted, with the advice and consent of the Administrative Board of the Courts, effective January 6, 1986. These Rules, which supersede almost all previously existing statewide, departmental, district and local rules for the trial courts, provided statewide uniform rules for each trial court, include the following:

Uniform Rules for the Engagement of
Counsel (Part 125) (22 NYCRR Part 125)

Uniform Rules for Courts Exercising
Criminal Jurisdiction (Part 200)
(22 NYCRR Part 200)

Uniform Civil Rules for the Supreme
Court and County Court (Part 202)
(22 NYCRR Part 202)

Uniform Rules for the Family Court
(Part 205) (22 NYCRR Part 205)

Uniform Rules for the Court of Claims
(Part 206) (22 NYCRR Part 206)

Uniform Rules for the Surrogate's
Court (Part 207) (22 NYCRR Part 207)

Uniform Rules for the New York City
Civil Court (Part 208)
(22 NYCRR Part 208)

Uniform Civil Rules for the City Courts
Outside of the City of New York
(Part 210) (22 NYCRR Part 210)

Uniform Civil Rules for the District
Courts (Part 212) (22 NYCRR Part 212)

Uniform Civil Rules for the Justice
Courts (Part 214) (22 NYCRR Part 214)

The following provisions of Title 22 NYCRR, constituting the former rules of the several trial courts, were repealed, effective January 6, 1986, having been superseded by the Uniform Rules:

Part 103 (22 NYCRR Part 103); Part 105 (22 NYCRR Part 105); section 112.2 (22 NYCRR 112.2); Part 113 (22

NYCRR Part 113); Part 114 (22 NYCRR Part 114); Part 117 (22 NYCRR Part 117); Part 120 (22 NYCRR Part 120); Part 150 (22 NYCRR Part 150); Part 151 (22 NYCRR Part 151); Part 340 (22 NYCRR Part 340); Part 360 (22 NYCRR Part 360); Part 420 (22 NYCRR Part 420); Part 421 (22 NYCRR Part 421); Part 422 (22 NYCRR Part 422); Part 440 (22 NYCRR Part 440); Part 580 (22 NYCRR Part 580); Part 605 (22 NYCRR Part 605); Part 630 (22 NYCRR Part 630); all sections of Part 635 (22 NYCRR Part 635), except for section 635.9 (22 NYCRR 635.9) thereof, which was not repealed; sections 636.2, 636.3, 636.4, 636.6, 636.7, 636.8, 636.9 of Part 636 (22 NYCRR 636.2, 636.3, 636.4, 636.6, 636.7, 636.8, 636.9); all sections of Part 660 (22 NYCRR Part 660), except that section 660.24 (22 NYCRR 660.24) thereof was repealed as of April 1, 1986; all sections of part 661 (22 NYCRR Part 661), except for section 661.7 (22 NYCRR 661.7) thereof, which was not repealed; section 671.8 (22 NYCRR 671.8); Part 672 (22 NYCRR Part 672); Part 673 (22 NYCRR Part 673); Part 674 (22 NYCRR Part 674); Part 675 (22 NYCRR Part 675); Part 676 (22 NYCRR Part 676); Part 677 (22 NYCRR 677); Part 678 (22 NYCRR Part 678); Part 680 (22 NYCRR Part 680); Part 681 (22 NYCRR Part 681); Part 682 (22 NYCRR 682); Part 683 (22 NYCRR Part 683); Part 685 (22 NYCRR Part-685); section 691.18 (22 NYCRR 691.18); all sections of Part 699 (22 NYCRR Part 699), except for section 699.10 thereof, which was not repealed; Part 704 (22 NYCRR Part 704); sections 711.1 and 711.2 (22 NYCRR 711.1, 711.2); Part 750 (22 NYCRR Part 750); Part 751 (22 NYCRR Part 751); Part 752 (22 NYCRR Part 752); Part 755 (22 NYCRR Part 755); Part 760 (22 NYCRR Part 760); Part 765 (22 NYCRR Part 765); Part 770 (22 NYCRR Part 770); Part 775 (22 NYCRR Part 775); Part 780 (22 NYCRR Part 780); Part 785 (22 NYCRR Part 785); Part 790 (22 NYCRR Part 790); Part 795 (22 NYCRR Part 795); Part 796 (22 NYCRR Part 796); Part 830 (22 NYCRR Part 830); Part 839 (22 NYCRR Part 839); sections 840.1 and 840.3 of Part 840 (22 NYCRR 840.1, 840.3); Part 860 (22 NYCRR Part 860); Part 861 (22 NYCRR Part 861); Part 862 (22 NYCRR Part 862); all sections of Part 863 (22 NYCRR Part 863), except for section 863.5 (22 NYCRR 863.5) thereof, which was not repealed; Part 1024 (22 NYCRR Part 1024); Part 1026 (22 NYCRR Part 1026); Part 1027 (22 NYCRR Part 1027); Part 1030 (22 NYCRR Part 1030); Part 1039 (22 NYCRR Part 1039), except for section 1039.3 thereof (22 NYCRR 1039.3), which was not repealed; Part 1060 (22 NYCRR Part 1060); Part 1085 (22 NYCRR Part 1085); Part 1110 (22 NYCRR Part 1110); Part 1155 (22 NYCRR Part 1155); all the sections of Part 1200 (22 NYCRR Part 1200), except that section 1200.17(b) thereof was repealed as of July 1, 1986; Part 1230 (22 NYCRR Part 1230); Part 1231 (22 NYCRR Part 1231); Part 1280 (22 NYCRR Part 1280); Part 1281 (22 NYCRR Part 1281); Part 1290 (22 NYCRR Part 1290); Part 1291 (22 NYCRR Part 1291); Part 1300 (22 NYCRR Part 1300); Part 1301 (22 NYCRR Part 1301); Part 1302 (22 NYCRR Part 1302); Part 1303 (22 NYCRR Part 1303); Part 1320 (22 NYCRR Part 1320); Part 1420 (22 NYCRR Part 1420); Part 1440 (22 NYCRR Part 1440); Part 1480 (22 NYCRR Part 1480); Part 1500 (22 NYCRR Part 1500); Part 1530 (22 NYCRR Part 1530); Part 1560 (22 NYCRR Part 1560); all sections of Part 1590 (22 NYCRR Part 1590), except for section 1590.11 (22 NYCRR 1590.11), which was not repealed; Part 1600 (22 NYCRR Part 1600); Part 1620 (22 NYCRR Part 1620); Part 1640 (22 NYCRR Part 1640); Part 1660 (22 NYCRR Part 1660); Part 1670 (22 NYCRR Part 1670); Part 1690 (22 NYCRR Part 1690); Part 1700 (22 NYCRR Part 1700); Part 1720 (22 NYCRR Part 1720); Part 1730 (22 NYCRR Part 1730); Part 1740 (22 NYCRR Part 1740); Part 1760 (22 NYCRR Part 1760); Part 1770 (22 NYCRR Part 1770); Part 1780 (22 NYCRR Part 1780); Part 1785 (22 NYCRR Part 1785); Part 1795 (22 NYCRR Part 1795); Part 1810 (22 NYCRR Part 1810); Part 1820 (22 NYCRR Part 1820); Part 1830 (22 NYCRR Part 1830); Part 1940 (22 NYCRR Part 1940); Part 1950 (22 NYCRR Part 1950); Part 1960 (22 NYCRR Part 1960); Part 1980 (22 NYCRR Part 1980); Part 1990 (22 NYCRR Part 1990); Part 2000 (22 NYCRR Part 2000); Part 2050 (22 NYCRR Part 2050); Part 2090 (22 NYCRR Part 2090); Part 2110 (22 NYCRR Part 2110); Part 2120 (22 NYCRR Part 2120); Part 2130 (22 NYCRR Part 2130); Part 2190 (22 NYCRR Part 2190); Part 2200 (22 NYCRR Part 2200); Part 2230 (22 NYCRR Part 2230); Part 2240 (22 NYCRR Part 2240); Part 2250 (22 NYCRR Part 2250); Part 2260 (22 NYCRR Part 2260); Part 2270 (22 NYCRR Part 2270); Part 2280 (22 NYCRR Part 2280); Part 2290 (22 NYCRR Part 2290); Part 2300 (22 NYCRR Part 2300); Part 2310 (22 NYCRR Part 2310); Part 2320 (22 NYCRR Part 2320); Part 2330 (22 NYCRR Part 2330); Part 2340 (22 NYCRR Part 2340); Part 2350 (22 NYCRR Part 2350); Part 2360 (22 NYCRR Part 2360); Part 2370 (22 NYCRR Part 2370); Part 2380 (22 NYCRR Part 2380); Part 2390 (22 NYCRR Part 2390); Part 2400 (22 NYCRR Part 2400); Part 2410 (22 NYCRR Part 2410); Part 2420 (22 NYCRR Part 2420); Part 2430 (22 NYCRR Part 2430); Part 2440 (22 NYCRR Part 2440); 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Part 3210 (22 NYCRR Part 3210); Part 3305 (22 NYCRR Part 3305); Part 3400 (22 NYCRR Part 3400); Part 3420 (22 NYCRR Part 3420); Part 3435 (22 NYCRR Part 3435); Part 3445 (22 NYCRR Part 3445); Part 3455 (22 NYCRR Part 3455); Part 3485 (22 NYCRR Part 3485); Part 3495 (22 NYCRR Part 3495); Part 3505 (22 NYCRR Part 3505); Part 3515 (22 NYCRR Part 3515); Part 3525 (22 NYCRR Part 3525); Part 3530 (22 NYCRR Part 3530); Part 3840 (22 NYCRR Part 3840); Part 3935 (22 NYCRR part 3935); Part 4000 (22 NYCRR Part 4000 (22 NYCRR Part 4000); Part 4300 (22 NYCRR Part 4300);

Part 4301 (22 NYCRR Part 4301); Part 4500 (22 NYCRR Part 4500); Part 5000 (22 NYCRR Part 5000); Part 5300 (22 NYCRR Part 5300); Part 5301 (22 NYCRR Part 5301); and Part 5302 (22 NYCRR Part 5321.

Section 100.5(b)(2) of the Rules of Judicial Conduct of the Chief Administrator (22 NYCRR Part 100.5(b)(2)) was amended, effective May 1, 1985, to permit judges to be speakers or guests of honor at bar association functions.

Subdivision (a) of section 113.5 of the Rules of the Chief Administrator (22 NYCRR 113.5(a)) was amended, effective April 1, 1985, with respect to establishing the compensation of Family Court Hearing Examiners at $160 per day.

Part 113 of the Rules of the Chief Administrator (22 NYCRR Part 113), relating to Family Court Hearing Examiners, was repealed, and Part 2504 of the Family Court Rules (22 NYCRR Part 2504), relating to support proceedings and including provisions governing Hearing Examiners, was adopted, both effective November 1, 1985.

Part 115 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 115) (Statistical Rules), was repealed, and a new Part 115 of such Rules (22 NYCRR Part 115) (Caseload Activity Reporting) was adopted, both effective November 13, 1985. The new rule governs statistical reporting by the various courts to the Office of Court Administration, updating and simplifying the requirements.

Subdivision (f) of section 116.3 of the Rules of the Chief Administrator (22 NYCRR 116(f)), relating to the monetary award that may be awarded by community dispute resolution centers, was amended, effective September 25, 1985, to increase the maximum award to $1,500.

Section 118.1 of the Rules of the Chief Administrator (22 NYCRR 118.1), relating to the attorney registration filing requirement, was amended, effective January 1, 1986, to clarify the application of the rule and to establish the biennial registration fee at $100.

Part 121 of the Rules of the Chief Administrator (22 NYCRR Part 121), relating to the temporary assignment to the Supreme Court of judges of the Civil, Criminal and Family Courts within the City of New York, was repealed, and new Part 121 of the Rules of the Chief Administrator (22 NYCRR Part 121), relating to the temporary assignment of judges to the Supreme Court, was adopted, both effective July 2, 1985. The new rule eliminates the previously required screening of prospective Acting Justices of the Supreme Court in the City of New York by a special Acting JSC Advisory Committee.

Part 123 of the Rules of the Chief Administrator (22 NYCRR part 123), establishing requirements for materials submitted to the Supreme Court libraries pursuant to section 102(4) (c) of the Executive Law, was adopted, effective February 23, 1986.

Part 124 of the Rules of the Chief Administrator (22 NYCRR Part 124), relating to public access to records, was adopted, effective July 1, 1985. This rule establishes procedures governing public access to administrative records of the Office of Court Administration pursuant to the Freedom of Information Law (Public Officers Law, Article 6).

Part 126 of the Rules of Chief Administrator (22 NYCRR Part 126), relating to the compensation of judges and justices temporarily assigned to a city court pursuant to section 107 of the Uniform City Court Act, was adopted, effective October 15, 1985, setting such compensation at $100 per day or such lesser amount as the order of assignment may specify.

Part 127 of the Rules of the Chief Administrator (22 NYCRR Part 127), providing for the assignment and compensation of counsel, psychiatrists, psychologists and physicians, was adopted, effective October 15, 1985, replacing former part 8 of the Rules of the Chief Judge (22 NYCRR Part 8), governing the same subject matter, and repealed as of the same date.

Part 128 of the Rules of the Chief Administrator (22 NYCRR Part 128) [initially cited as Part 125], in relation to jury districts, was adopted, effective January 1, 1986.

Part 150 of the Rules of the Chief Administrator (22 NYCRR Part 150), establishing special procedures for medical and dental malpractice actions, was adopted, effective September 25, 1985, but later was repealed, effective January 6, 1986, and was superseded by section 202.56 of the Uniform Civil Rules for the Supreme and County Courts (22 NYCRR 202.56), effective January 6, 1986.

Part 151 of the Rules of the Chief Administrator (22 NYCRR Part 151), establishing special procedures for the judicial review of orders of the State Division of Human Rights, was adopted, effective October 15, 1985, but later was repealed, effective January 6, 1986, and was superseded by section 202.57 of the Uniform Civil Rules for the Supreme and County Court, effective January 6, 1986.

Part 2504 of the Family Court Rules (22 NYCRR Part 2504), relating to support proceedings, was amended, effective November 13, 1985, by adding thereto a new section 2504.8 (22 NYCRR 2504.8), and by renumbering sections 2504.8, 2508.9, 2504.10 and 2504.11 as 2504.9, 2504.10, 2504.11 and 2504.12, respectively (22 NTCRR 2504.9, 2504.10, 2504.11, and 2504.12). This new section, which provided for the mechanical recording of support hearings, was repealed, effective January 6, 1986, and was replaced by section 205.37 of the Uniform Family Court Rules (22 NYCRR 205.37), which became effective on that date.

Section 3495.1(d) of the Rules of the Rochester City Court (22 NYCRR 3495.1(d)), was amended, effective September 16, 1985, to revise the scheduling of small claims sessions, but later was repealed with Part 3495 in its entirety, (22 NYCRR Part 3495), effective January 6, 1986. Part 3495 (22 NYCRR Part 3495) was superseded by Part 210 (22 NYCRR Part 210) (Uniform Civil Rules for the City Courts Outside the City of New York), effective January 6, 1986.

1986 Report

of the

Advisory Committee on Civil Practice

to the

Chief Administrator of the Courts

of the

State of New York

February 1986

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I. Introduction

In this 1986 Report of the Advisory Committee on Civil Practice to the Chief Administrator of the Courts of the State of New York, the Committee recommends a total of 16 bills for enactment by the 1986 Legislature. Of these, 10 bills have been previously endorsed, while six bills are new or modified measures.

A major new proposal would introduce the option of service of process by mail, derived from the procedure effectively employed in the federal courts since 1983, in all courts of the Uniform Court System. Also included as new bills are two on appellate procedure recommended by the Court of Appeals: (1) to clarify and complete the provisions on stays of enforcement on appeal, and (2) to provide for direct appeal to the Court of Appeals from an arbitrator's award, thereby raising a prior nonfinal order of the Appellate Division affecting such award. While the 1985 Report discussed these proposals, introduction to the Legislature was deferred until this year.

Notable also are two modified bills: (1) a measure revising Article 31 of the CPLR on disclosure, updated to reflect enactments of the 1985 Legislature, and (2) a measure creating a new statute of limitations applicable to actions based on latent injuries caused by exposure to noxious agents, the running of which would be triggered by discovery of injury and cause thereof. The period of limitations bill, introduced at the 1985 Session, has been revised by the Subcommittee on Statutes of Limitations to achieve greater clarity.

Part II of this Report summarizes each of the measures previously submitted and explains the purpose in each instance. Part III summarizes each of the measures being submitted for the first time and the measures submitted previously but modified upon submission this year. In both Parts II and III, individual summaries are followed by drafts of appropriate legislation. Part IV briefly discusses pending and future projects under Committee consideration for legislation.

In addition to recommending its annual legislative program, the Committee reviews and comments on pending measures, other than its own, to revise civil procedure.

II. Previously Endorsed Measures

1. Additional Notice of Default Judgment in Actions Based on Consumer Credit Transactions (CPLR 308, 3215(e) (f)

The Committee recommends the repeal of the unnumbered last paragraph of CPLR 308, which mandates that a notice of default judgment, in addition to that contained in the summons, be served on a defendant who is a natural person in an action arising out of a consumer credit transaction, and the transfer of this provision, clarified and improved, into CPLR 3215. This measure does not propose, however, to alter in any essential aspect the protection against sewer service which the present law, enacted by chapter 344 of the Laws of 1977, provides.

The language of the 1977 legislation, although salutary in intent, has given rise to technical problems. The procedure would be improved by the recommended changes, as follows:

1. The application of the provision to actions for nonpayment of a contractual obligation would be changed to those arising from a consumer credit transaction. This change is consistent with the purpose of the provision to protect against sewer service, which is rare in contract actions except those arising from consumer credit transactions.

2. Actions affecting title to property would be excepted. Title companies are justly apprehensive that, in such actions, the requirement to give additional notice could be troublesome in that inadvertent failure to do so allows vacatur of the default judgment, thus generating challenges to title many years after entry of judgment.

3. In conformance with general practice, provision would be made for service of the additional notice by the employee of an attorney, as well as by the party or his attorney, as at present.

4. It would be made clear that the additional notice may be mailed not only after, but also simultaneously with service of process.

5. Where there has been compliance with the additional notice requirements, failure of the defendant to receive such notice shall not preclude entry of, or invalidate, the default judgment. Without this provision, the plaintiff would be penalized unfairly by being prevented from obtaining a judgment where it is impossible to serve the additional notice on the defendant.

This measure would relocate the provisions governing default notices, now located in CPLR 308 (service of process), to a new paragraph 3 of CPLR 3215(f) (notice requirements for entry of default judgment), where it more logically belongs. CPLR 3215(e) would be amended to correct an obsolete cross-reference to CPLR 308; and a number of other minor verbal and mechanical improvements would also be made.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to additional notice of default judgment in an action arising out of a consumer credit transaction and to repeal certain provisions thereof relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The closing paragraph of section three hundred eight of the civil practice law and rules is REPEALED.

§2. Subdivision (e) of section thirty-two hundred fifteen of such law and rules, as amended by chapter three hundred forty-four of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(e) Proof. On any application for judgment by default, the applicant shall file proof of service of the summons and the complaint, or a summons and notice served pursuant to subdivision (b) of rule 305 or subdivision (a) of rule 316, and proof by affidavit made by the party of the facts constituting the claim, the default and the amount due. Where a verified complaint has been served it may be used as the affidavit of the facts constituting the claim and the amount due; in such case, an affidavit as to the default shall be made by the party or his attorney. When jurisdiction is based on an attachment of property, the affidavit must state that an order of attachment granted in the action has been levied on the property of the defendant, describe the property and state its value. Proof of mailing the notice required by [section three hundred eight of the civil practice law and rules] *subdivision (f), where applicable,* shall also be filed [where such notice is required].

§3. Subdivision (f) of section thirty-two hundred fifteen of such law and rules, as amended by chapter seven hundred twenty of the laws of nineteen hundred sixty-eight, is amended by adding a new paragraph three to read as follows:

3. (i) When a default judgment based upon nonappearance is sought against a natural person in an action arising out of a consumer credit transaction, as defined in subdivision (f) of section 105, an affidavit shall be submitted that additional notice has been given by or on behalf of the plaintiff at least twenty days before the entry of such judgment, by mailing a copy of the summons by first class mail to the defendant at his place of residence in an envelope bearing the legend "personal and confidential" and not indicating on the outside of the envelope that the communication is from an attorney or concerns an alleged debt. In the event such mailing is returned as undeliverable by the post office before the entry of a default judgment, or if the place of residence of the defendant is unknown, a copy of the summons shall then be mailed in the same manner to the defendant at the defendant's place of employment if known; if neither the place of residence nor the place of employment of the defendant is known, then the mailing shall be to the defendant at his last known residence.

(ii) The additional notice may be mailed simultaneously with or after service of the summons on the defendant. An affidavit of mailing pursuant to this paragraph shall be executed by the person mailing the notice and shall be filed with the judgment. Where there has been compliance with the requirements of this paragraph, failure of the defendant to receive the additional notice shall not preclude the entry of default judgment.

(iii) This requirement shall not apply to cases in the small claims part of any court or to any summary proceeding to recover possession of real property or to actions affecting title to real property.

§4. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

REPEAL NOTE: — The last undesignated paragraph of CPLR 308, to be repealed by this bill, relates to the additional notice required to take a default judgment in an action against a natural person based upon nonpayment of a contractual obligation. New proposed paragraph 3 of subdivison (f) of CPLR 3215 governs the additional notice requirement in consumer credit transactions, and supersedes the repealed provision.

2. Reproduction of Hospital Records (CPLR 2306(a))

The Committee recommends the amendment of CPLR 2306(a) to specify that a reproduction of an institutional record under subpoena must be in the form of a full-sized legible copy and, further, that in order to allow time for preparation, an appropriate extension of the existing time limit for such production be effected.

This measure would amend sudivision (a) of CPLR 2306 for the purpose of preventing a private or public institution, under subpoena to produce certain patient records, from supplying a copy of an original record which, because of the copy's reduced size or illegibility, cannot be used for its intended purpose. The only alternative the present provision offers is the production of a transcript which, even if possible, may entail undesirable time or expense. The proposed amendment, by specifying that the reproduction must be a full-sized legible copy of the original record, will ensure that the reproduction can be readily utilized.

In order to allow for the relative increase in time in the preparation of such a reproduction, this measure would effect a modest extension of the time period for complying with the notice to produce — at present fixed at twenty-four hours — to three days.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to reproduction of hospital records

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section twenty-three hundred six of the civil practice law and rules is hereby amended to read as follows:

(a) Transcript or reproduction. Where a subpoena duces tecum is served upon a hospital, or upon a department or bureau of a municipal corporation or of the state, or an officer thereof, requiring the production of records relating to the condition or treatment of a patient, a transcript or *a full-sized legible* reproduction, certified as correct by the superintendent or head of the hospital, department or bureau or his assistant, or the officer, may be produced unless otherwise ordered by a court. Such a subpoena shall be served at least [twenty-four hours] *three days* before the time fixed for the production of the records unless otherwise ordered by a court.

§2. This act shall take effect on the first day of January next succeeding the day on which it shall have become law.

3. Bill of Particulars (CPLR 3041, 3042)

The Committee recommends the amendment of CPLR 3041 and CPLR 3042 of the Civil Practice Law and Rules to save the time of courts and litigants, to curtail pronounced and widespread abuses which have arisen under present law, and otherwise to improve the procedures governing the use of bills of particulars.

Under the present provisions of CPLR 3042, many attorneys serve a bill of particulars only after being served with a conditional order of preclusion. Initial requests for bills of particulars routinely are ignored. Some attorneys routinely serve demands that are so prolix and burdensome as effectively to harass opponents. Still other attorneys routinely serve patently defective bills.

The courts are inundated with motions to preclude for failure timely to serve bills of particulars, and with motions relating to disclosure generally. During 1980, for example, Special Term, Part I-A, of the Supreme Court in New York County, processed 25, 242 motions relating to bills of particulars, disclosure, and statements of readiness. Motions relating to bills of particulars are adjourned frequently, and the final determination is generally a conditional order of preclusion which may or may not be obeyed. This practice wastes judicial resources and burdens litigants.

The language of CPLR 3042 is streamlined by making a minor amendment to CPLR 3041. "Bill of particulars" is defined to include "items of an account or a copy thereof," thus eliminating the need for numerous references in CPLR 3042 to items of an account.

The following revisions are contained in CPLR 3042:

Whereas the party served with a demand for a bill of particulars must now comply with the demand within 20 days of service or move to vacate or modify the demand within 10 days thereof, this bill would amend subdivision (a) to simplify the procedure by setting a uniform period of 20 days in each instance, and the party moving to modify the demand would be required to attach to the moving papers a copy of the proposed bill, complying with the items to which there is no objection.

Subdivision (b), which allows a party seeking a bill of particulars to proceed by motion instead of demand, is retained, although it seldom is utilized. There may be some circumstances in which proceeding by motion initially is appropriate.

Subdivision (c) would be amended to create a new automatic preclusion procedure applicable to a party who fails timely either to comply with the demand for a bill of particulars or to move to vacate or modify. In the absence of any such timely action, the demanding party would be authorized to put the defaulting party on written notice that the bill has not been served and that an automatic preclusion will take effect 30 days after service of the notice if the bill is not received. The written notice must be served by personal delivery or by registered or certified mail. Additionally, the notice is required to refer to this rule so that the defaulting party may be alerted to the statutory sanction for default in serving the bill.

The notice and automatic preclusion procedure, which is provided for in amended subdivision (c), and is new, is the principal difference between the proposed rule 3042 and present rule 3042.

A party who is unable to comply with the demand should move in a timely manner under subdivison (a) to prevent the imposition of any sanction. A party would not be permitted to move to vacate or modify a demand after receipt of the preclusion notice but may move to vacate the default within 60 days after service of the notice of preclusion. Such relief could be afforded only upon a showing of justifiable excuse for the default, the submission of an affidavit of merits and the proposed bill of particulars. Relief from automatic preclusion would be governed by a new subdivison (d).

Present subdivision (d) governing preclusion for a defective bill would be retained with some revision as new subdivision (e).

Present subdivision (e) governing the conditional order of preclusion, would be deleted since that procedure is superseded by this revision. Present subdivision (f), governing affidavits, would be eliminated as unnecessary because general rules governing motions and affidavits are adequate and because an affidavit of merits, to be required by new subdivison (d), should be made by a party, not an attorney.

Present subdivision (g) (amendment) would be redesignated as new subdivision (f) and slightly reworded for the sake of clarification.

Present subdivision (h) (costs) would be redesignated as new subdivision (g).

Nothing in the revision of this rule precludes parties or their attorneys from extending by written stipulation the time for serving any notice, motion or bill of particulars.

The extension of time to 20 days to move to modify or vacate the demand, together with the potential for automatic preclusion, should substantially reduce the number of motions required with respect to bills of particulars, and significantly improve the administration of justice.

Revision of rule 3042 also provides an opportunity to make minor grammatical and technical changes in the wording of various provisions. These changes are not intended to have any substantive effect.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to bill of particulars

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty hundred forty-one of the civil practice law and rules is amended to read as follows:

§3041. Bill of particulars in any case. Any party may require any other party to give a bill of particulars of [his] *such party's* claim, or a copy of the items of the account alleged in a pleading. *As used in this article, the term "bill of particulars" shall include "copy of the items of an account" wherever appropriate.*

§2. Rule thirty hundred forty-two of such law and rules, as subdivision (a) thereof was amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, and as subdivision (g) thereof was amended by chapter two hundred ninety-seven of the laws of nineteen hundred seventy-eight, and as subdivision (h) thereof was inserted by chapter two hundred ninety-six of the laws of nineteen hundred seventy-eight, is amended to read as follows:

Rule 3042. Procedure for bill of particulars. (a) [Notice. A request for a bill of particulars or a copy of the items of an account shall be made by serving a written notice stating the items concerning which such particulrs are desired. If the party upon whom such notice is served is unwilling to give such particulars, in whole or in part, he may move to vacate or modify such notice within ten days after receipt thereof. The notice or supporting papers shall specify clearly the objections and the grounds therefor. If no such motion is made the bill of particulars shall be served within twenty days after the demand therefor, unless the court shall otherwise direct.] *Demand. A demand for a bill of particulars shall be made by serving a written demand stating the items concerning which the particulars are desired. The party served with the demand, within twenty days of the service thereof, shall serve a bill of particulars complying with the demand, or move to vacate or modify the demand, specifying the objections and the grounds therefor. A party moving to modify the demand shall attach to the moving papers a copy of the proposed bill, complying with the items to which no objection is made.*

(b) Motion. Instead of proceeding by demand, [the] *a* party may move for a bill of particulars, [or copy of the items of account] in the first instance.

(c) Preclusion for failure to supply bill. [In the event that] *If* a party fails *timely* to furnish a bill of particulars, [or copy of the items of an account the court, upon notice, may preclude him from giving evidence at the trial of the items of which particulars have not been delivered.] *or to move to vacate or modify the demand, the demanding party may serve a written notice of preclusion by personal delivery or by registered or certified mail requesting that the demand be complied with within thirty days after service of the notice. The notice shall refer to this rule and shall state that if the party fails to comply therewith the party shall be automatically precluded without an application to the court. If the party served with the notice fails, within thirty days after service thereof, to furnish a bill, the party shall be precluded from giving evidence at trial of the particulars not furnished.*

(d) [Preclusion for defective bill. Where a bill of particulars, or copy of the items of an account, is regarded as defective or insufficient by the party upon whom it is served, the court, upon notice, may make an order of preclusion or directing the service of a further bill. In the absence of special circumstances, a motion for such relief shall be made within ten days after the receipt of the bill claimed to be insufficient.] *Relief from automatic preclusion. A party precluded under subdivision (c) of this rule may move to vacate the default within sixty days after service of the notice of preclusion, upon a showing of justifiable excuse for the default, and submission of an affidavit of merits and the proposed bill.*

(e) [Conditional order of preclusion. A preclusion order may provide that it will be effective unless a proper bill is served within a specified time.] *Preclusion for defective bill. Where a bill is defective or insufficient, the court, upon motion, may order preclusion or direct the service of a further bill. In the absence of special circumstances, a motion for such relief shall be made within the thirty days after receipt of the bill claimed to be defective or insufficient.*

(f) [Affidavits. Affidavits to be used in support of or in opposition to a motion under this rule may be made by a party or his attorney.

(g)] Amendment. In any action or proceeding in a court in which a note of issue is required to be filed, a party may amend [his] *the* bill of particulars once as of course [before trial,] prior to the filing of a note of issue.

[(h)] *(g)* Costs. Upon any motion, except under subdivison (b), costs may be imposed.

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

4. Withdrawal of Demand for Trial by Jury (CPLR 4102(a))

The Committee recommends that CPLR 4102(a) be amended to provide that a party may not withdraw a demand for trial by jury without the consent of other parties, even where another party had filed a note of issue without a jury demand.

It has been brought to the attention of the Committee that there are occasions where a plaintiff files a note of issue without demanding a jury and, thereupon, the defendant files a jury demand. In some such instances the defendant later may withdraw the demand, perhaps on the eve of trial or even after a jury panel has been selected. Thus, a defendant may secure the benefit of substantial delay occasioned by the jury demand and wait until the last minute to decide whether trial by jury is likely to be beneficial to him, retaining until that time a unilateral right to keep or disband a jury.

While CPLR 4102(a) nominally would seem to preclude this tactic by requiring the consent of all parties to the withdrawal of a jury demand, the courts have carved an exception to the consent requirement. In *Gonzalez* v. *Concourse Plaza Syndicates, Inc.*, 41 N.Y.2d 414 (1977), the Court of Appeals held that the consent of a party to the withdrawal of a jury demand is not required where that party previously had filed a note of issue waiving the right to trial by jury.

The courts have criticized the tactic permitted by the interpretation of CPLR 4102(a) in the *Gonzalez* case. In *Wright* v. *Centurion Investigations*, 113 Misc.2d 150 (App. Term, Second Dep't 1982), the Appellate Term refused to allow a plaintiff to file a jury demand *nunc pro tunc*, where the plaintiff had not demanded a jury in the note of issue and the defendant had thereafter filed and later withdrew a jury demand. The concurring opinion in that case stated, at p.151, as follows:

> I concur with the result based upon the present state of the law. However, I deplore the "gamesmanship" practiced by defendants-appellants... Appellants filed a jury demand, thereby delaying the trial of the action. Thereafter, as the matter was about to be tried and the jury selection process had begun, appellants sought to withdraw their jury demand over plaintiff's objections. Permitting a defendant to withdraw the demand at that point places a plaintiff at a decided disadvantage. Defendant, if satisfied with the prospective panel, will proceed to a trial by jury, whereas if he is not satisfied all he need do is withdraw his demand and obtain a nonjury trial. Plaintiff, however, has no such option. Such tactics should not be countenanced and it is suggested legislation be enacted to remedy the situation.

The Advisory Committee recommends that the statute be revised to provide that a party may not withdraw a demand for trial by jury without the consent of the other parties, regardless of whether another party previously filed a note of issue without a demand for trial by jury.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to the withdrawal of a demand for trial by jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section forty-one hundred two of the civil practice law and rules, as amended by chapter nineteen of the laws of nineteen hundred sixty-eight, is amended to read as follows:

(a) Demand. Any party may demand a trial by jury of any issue of fact triable of right by a jury, by serving upon all other parties and filing a note of issue containing a demand for trial by jury. Any party served with a note of issue not containing such a demand may demand a trial by jury by serving upon each party a demand for a trial by jury and filing such demand in the office where the note of issue was filed within fifteen days after service of the note of issue. A demand shall not be accepted for filing unless a note of issue is filed in the action. If no party shall demand a trial by jury as provided herein, the right to trial by jury shall be deemed waived by all parties. [A party may not] *Notwithstanding that any party has filed a note of issue without a demand for a trial by jury, no party may* withdraw a demand for trial by jury without the consent of the other parties.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

5. Civil Arrest of Judgment Debtor (CPLR 5250)

The Committee recommends the repeal of CPLR 5250 in order to terminate the availability of civil arrest as an adjunct in the enforcement of money judgments, thereby harmonizing the statute with Chapter 409 of the Laws of 1979, which abolished the analogous provisionsal remedy.

This measure would repeal section 5250 of the CPLR to abolish the remedy of civil arrest in connection with the enforcement of money judgments. Since the remedy of civil arrest in connection with the enforcement of money judgments, provided for by CPLR 5250, is analogous to the provisional remedy of civil arrest abolished by Chapter 409 of the Laws of 1979, similar policy considerations militate toward its abolition. In addition, repeal to CPLR 5250 would have a negligible impact on civil practice in this state, since the arrest which it authorizes is infrequently sought and rarely, if ever, granted. Finally, the Advisory Committee on Civil Practice believes that the provision is of doubtful constitutionality. See *Deary* v. *Guardian Loan Co., Inc.*, 534 F. Supp. 1178 (S.D.N.Y. 1982).

Proposal

AN ACT

To repeal section fifty-two hundred fifty of the civil practice law and rules, in relation to civil arrest of judgment debtor.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifty-two hundred fifty of the civil practice law and rules is REPEALED.

§2. This act shall take effect immediately.

6. Notice of Motion for Temporary Restraining Order (CPLR 6313(a))

The Committee recommends that CPLR 6313(a) be amended to regularize the giving of notice, if only informal, on an application for a temporary restraining order, except upon dispensation of the court for a compelling reason, which must be recited in the order.

This measure would amend subdivision (a) of section 6313 of the CPLR to provide that a court, before granting an application for a temporary restraining order upon a motion for a preliminary injunction, must determine whether notice of the application is practicable and would not defeat the purpose of the order. If the court finds notice to be practicable, it shall direct that it be given; if not, it may grant the order without notice and shall state in the order the reasons for dispensing with notice.

The aim of the preliminary injunction is to preserve the status quo between parties to litigation, pending final judgment. The aim of the temporary restraining order is similar but far more limited in scope. An interim measure, it seeks to preserve the status quo while application is being made for a preliminary injunction.

Given this function, it is frequently assumed that each instance of an application for a temporary restraining order is one in which the urgency of the interim injunctive relief being sought is too great to allow for time spent to notify the other side. The experience of most judges, however, suggests that while there is occasionally a showing of an exigency warranting the complete dispensing of such notice, many cases involve no such urgency and no prejudice will ensue to any party where steps are taken to give notice of the application for the order. Accordingly, this measure proposes that the need for and feasibility of giving notice be determined by the court on a case-by-case basis. Where the giving of notice, even if by the most informal means, is practicable and will not defeat the purpose of the order, the court shall direct that it be given. Where it is not practicable, or, where, even if practicable, there is a significant chance that a party, upon notification of the application for a temporary restraining order, will forthwith do precisely that which the order is being sought to prevent, the court may dispense with the notice. It must, in such event, however, articulate in the order the reason therefor.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to notice of motion for a temporary restraining order

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section sixty-three hundred thirteen of the civil practice law and rules, as amended by chapter two hundred thirty-five of the laws of nineteen hundred eighty-two, is amended to read as follows:

(a) Generally. If, on a motion for a preliminary injunction, the plaintiff shall show that immediate and irreparable injury, loss or damages will result unless the defendant is restrained before a hearing can be had, a temporary restraining order may be granted without notice. *If the circumstances are such that notice, even if only by telephone or other informal means, is practicable and would not defeat the purpose of the order, the court shall direct that it be given; and if the court finds otherwise, it shall state in the order the reasons for dispensing with notice.* Upon granting a temporary restraining order, the court shall set the hearing for the preliminary injunction at the earliest possible time. No temporary restraining order may be granted in an action arising out of a labor dispute as defined in section eight hundred seven of the labor law, nor against a public officer, board or minicipal corporation of the state to restrain the performance of statutory duties.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

7. Trial of Issues of Fact with Respect to Arbitration (CPLR 7503)

The Committee recommends the enactment of CPLR 7503(d) to direct that the trial of issues of fact arising on an application to compel or stay an arbitration be without a jury.

This measure would add a new subdivision (d) to section 7503 of the CPLR, to direct that issues of fact which arise upon an application to compel or stay arbitration shall be tried by the court without a jury.

At present, such issues of fact are tried by a jury. The purpose of arbitration, however, is to facilitate prompt dispute resolution. Accordingly, this measure will enable fair and expeditious resolution of these issues of fact by the court with minimum delay to the arbitral process and, in view of the already congested state of civil jury trial calendars, with salutary impact on court administration.

Recognizing that constitutional objections might exist, the Advisory Committee on Civil Practice requested that a study of this proposal be undertaken at Yale Law School. This study, which appears in the 1978 Annual Report of the Judicial Conference (at p. 314), concludes that the Constitution does not bar the Legislature from terminating the right to trial by jury of the arbitrability issue.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to the trial of issues of fact with respect to arbitration

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy-five hundred three of the civil practice law and rules is amended by adding thereto a new subdivision, to be subdivision (d), to read as follows:

(d) Issues of fact. Issues of fact arising on an application under this section shall be tried by the court without a jury.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

8. Hearing and Determination of Article 78 Proceeding (CPLR 7804(g))

The Committee recommends that CPLR 7804(g) be amended to make it clear that only those issues which could terminate the case upon their being resolved before the substantial evidence issue is reached shall be decided by the Supreme Court before the case can be transferred, when not dismissed, to the Appellate Division for consideration of the substantial evidence question.

This bill would amend subdivision (g) of section 7804 of the CPLR, which provides that an Article 78 proceeding involving the question whether an administrative determination is supported by substantial evidence shall be transferred from the Supreme Court to the Appellate Division. It also provides, however, that the Supreme Court may pass "on objections in point of law." Just what questions are to be passed upon under this ambiguous provision has long been a subject of disagreement.

This measure would amend subdivisions (g) to eliminate the reference to "objections in point of law" and to clarify the process preliminary to transfer of an Article 78 proceeding to the Appellate Division. As is now the law, where a substantial evidence issue is not raised, the Supreme Court would dispose of all the issues in the proceeding. Under this measure, however, where a substantial evidence issue is raised, the Supreme Court would first dispose of "such other objections as could terminate the proceeding without reaching the substantial evidence issue" — *i.e.*, lack of jurisdiction, statute of limitations and res judicata. If disposition of these objections does not terminate the proceeding, the Supreme Court must then transfer the proceeding to the Appellate Division.

This distribution of jurisdiction over Article 78 proceedings is salutary. The substantial evidence rule is an adjunct to the old writ of *certiorari*, which was available only where a litigant sought review of a determination following a full-fledged, quasi-judicial administrative hearing. Transfer of substantial evidence cases to the Appellate Division is premised on the fact that in such cases there has already been a plenary hearing before an administrative agency, giving rise to a full record, and that review of that record should be the responsibility of an appellate-level court. Likewise, authorizing trial courts first to screen substantial evidence cases, and in the process weeding out those with fatal defects unrelated to substantial evidence issues, is clearly consistent with the role of *nisi prius* at the Supreme Court level. Moreover, this procedural arrangement is desirable from the standpoint of effective court administration and judicial economy. There is little reason to involve a trial court in review of substantial evidence issues because: (1) the record to be reviewed was established at the agency level and is complete; and (2) to permit such review would merely be duplicative of the review to follow in the Appellate Division. Filtering substantial evidence cases through the trial courts, however, to permit the early disposition of those with fatal defects, will provide some relief for already congested Appellate Division calendars.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to the hearing and determination of article 78 proceeding

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (g) of section seventy-eight hundred four of the civil practice law and rules is amended to read as follows:

(g) Hearing and determination; transfer to appellate division. Where [an] *the substantial evidence* issue specified in question four of section 7803 is not raised, the court in which the proceeding is commenced shall itself dispose of the issues in the proceeding. Where such an issue is raised, the court shall *first dispose of such other objections as could terminate the proceeding, including but not limited to lack of jurisdiction, statute of limitations and res judicata, without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceeding, the court shall* make an order directing that [the proceeding] *it* be transferred for disposition to a term of the appellate division held within the judicial department embracing the county in which the proceeding was commenced [; the court may, however, itself pass on objections in point of law]. When the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, if the papers are insufficient, it may remit the proceeding.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

9. Fees of Persons Subpoenaed (CPLR 8001(a))

The Committee recommends that CPLR 8001(a) be amended to raise the daily fee for a subpoenaed witness from $2.00 to $15.00, and the mileage fee payable to the witness from .08 to .23 cents, owing to inflation.

This measure would amend subdivision (a) of section 8001 of the CPLR to increase both the attendance fee and travel expenses for a person subpoenaed to testify in civil actions. The daily attendance fee would be increased from $2.00 to $15.00, and travel expenses for each mile from the place of service of the subpoena to the place of attendance and back, from 8¢ to 23¢. Because section 610.50 of the CPL provides that "[a] witness subpoenaed by the people in a criminal action is entitled to the same fees and mileage as a witness in a civil action," this measure would provide similar increases in fees and expenses allowed prosecution witnesses in criminal cases.

As a result of inflation, attendance fees and the reimbursement level for travel expenses for persons subpoenaed are in need of revision. These fees and expenses, which have not been revised since the enactment of the CPLR in 1962, no longer reflect present economic reality. The proposed increase in fees will afford witnesses more reasonable compensation for time lost while testifying in court or at an examination before trial. The proposed increase in mileage will provide witnesses with the same reimbursement now afforded State employees who travel on official State business.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to fees of persons subpoenaed

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (a) of section eighty hundred one of the civil practice law and rules, is amended to read as follows:

(a) Persons subpoenaed. Any person [whom] *whose* attendance is compelled by a subpoena, whether or not actual testimony is taken, shall receive for each day's attendance [two] *fifteen* dollars for attendance fees and [eight] *twenty-three* cents as travel expenses for each mile to the place of attendance from the place where he *or she* was served, and return. There shall be no mileage fee for travel wholly within a city.

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

10. Amount of Court Costs (CPLR 8201 - 8204)

The Committee recommends the amendment of the four sections governing court costs, to upgrade the amounts and to provide for uniform statewide application thereof in order to reduce the gap occasioned by inflation.

This measure would amend sections 8201, 8202, 8203 and 8204 of the CPLR to increase the amount of costs awardable in an action, on a motion, and on appeal to the Appellate Division and the Court of Appeals.

No change is proposed in the concept that costs provide only a partial reimbursement for the expenses incurred by a successful party: the amounts awardable, which have not been changed in many years, are adjusted principally to offset the effects of inflation over the last decade.

The policy underlying an award of costs is that the prevailing party should have some compensation for the expenses incurred in successfully asserting his rights in court. Only certain categories of out-of-pocket expenses are recoverable as "disbursements" (CPLR 8301); an award of costs provides partial reimbursement for general expenses and inconvenience incurred by the successful party. The sums allowed as costs, as set out in Article 82 of the CPLR, are nominal. These are not intended to represent full recovery of attorney's fees *(Harlan* v. *Weiner,* 80 Misc. 2d 723, 725 (Civil Court of the City of New York, New York County, Dec. 18, 1974)). Some New York courts have declined to allow the prevailing party in ordinary civil litigation to recover actual litigation expenses, even where the opposing party has asserted groundless claims or defenses *(Scully* v. *Genesee Milk Producer's Coop.,* 78 A.D.2d 982 (Fourth Dep't 1980)), "the theory being that costs awarded. . .is all the indeminity that the law allows. . ." *New York Pattern Jury Instructions-Civil,* vol. 2, p.810.

Since the amounts allowable as costs have not been changed for many years, the nominal sums originally set have become absurdly low as a result of inflation. In 1951, the Civil Practice Act adopted the present format of awarding $25 for proceedings before the filing of a note of issue, $50 for all proceedings after a note of issue is filed and before trial, and $75 for each trial, inquest or assessment of damages. These categories and dollar amounts were carried forward when the CPLR was enacted in 1962. In 1972, a distinction was drawn between actions in the counties within the City of New York and elsewhere in the state, and the amounts were doubled as to those counties within the City of New York. There have been no changes at all in the amounts applicable to actions outside the City of New York.

For motions, costs were fixed at $10 for many decades and then increased to $20 when the CPLR was enacted in 1962. In 1972, the maximum costs on motions in counties within the City of New York were increased to $40 while the maximum of $20 was preserved elsewhere.

The level of costs on appeals has remained the same for several decades.

With the rate of inflation experienced in the last fifteen years, the amounts now authorized as costs have lost what little significance they once had. This measure proposes modest across-the-board increases in these amounts so that victorious litigants may receive compensation for their expenses at a level closer to what originally was intended.

Under present law (CPLR 8201), costs in an action are made awardable in three stages and may vary, depending on whether the action is being litigated in New York City or elsewhere in the State. Thus, costs awardable for proceedings before the filing of a note of issue now are established at $50 in New York City and $25 elsewhere; for proceedings between the filing of the note of issue and trial, they are $100 and $50 respectively. This measure would, at each stage, eliminate the distinction drawn between New York City and elsewhere, and establish uniform costs awardable in an action as follows: for the pre-note of issue stage, which has become more important in recent years as a result of the certificate of readiness requirement, $200; for the note of issue to trial stage, $200; and for the trial itself $300.

Cost on a motion (CPLR 8202) are fixed by the court, subject to a maximum of $40 in New York City and $20 elsewhere. Here again, this measure would eliminate the distinction drawn between New York City and elsewhere and establish $100 as the maximum costs awardable on a motion.

The maximum costs available on appeal to the Appellate Division (CPLR 8203(a)) are awardable in two stages: $25 for all pre-argument proceedings and $50 for argument. Maximum costs on appeal to the Court of Appeals (CPLR 8204) are similarly bifurcated: $50 for all pre-argument proceedings and $75 for argument. This measure would, in both cases, eliminate the two-stage award, and would establish $250 and $500 as the maximum costs awardable on appeal to the Appellate Division and to the Court of Appeals, respectively.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to amount of court costs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section eighty-two hundred one of the civil practice law and rules, as separately amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8201. Amount of costs in an action. Costs awarded in an action shall be in the amount of:

1. [fifty] *two hundred* dollars [in the counties within the city of New York, and twenty-five dollars in all other counties,] for all proceedings before a note of issue is filed; plus

2. [one] *two* hundred dollars [in the counties within the city of New York, and fifty dollars in all other counties,] for all proceedings after a note of issue is filed and before trial; plus

3. [one] *three* hundred [fifty] dollars [in the counties within the city of New York, and seventy-five dollars in all other counties,] for each trial, inquest or assessment of damages.

§2. Section eighty-two hundred two of such law and rules, as separately amended by chapters seven hundred thirty-four and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8202. Amount of costs on motion. Costs awarded on a motion shall be in an amount fixed by the court, not exceeding [forty] *one hundred* dollars [in counties within the city of New York, and twenty dollars in all other counties].

§3. Subdivision (a) of section eighty-two hundred three of such law and rules, as separately amended by chapters three hundred ninety-one and seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

(a) Unless the court awards a lesser amount, costs awarded on an appeal to the appellate division shall be in the amount of [: 1. twenty-five dollars for all proceedings before argument; plus 2. fifty dollars for argument] *two hundred fifty dollars.*

§4. Section eighty-two hundred four of such law and rules, as amended by chapter seven hundred thirty-five of the laws of nineteen hundred seventy-two, is amended to read as follows:

§8204. Amount of costs on appeal to court of appeals. Unless the court awards a lesser amount, costs awarded on an appeal to the court of appeals shall be in the amount of [: 1. fifty dollars for all proceedings before argument; plus 2. seventy-five dollars for argument] *five hundred dollars.*

§5. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law; provided, however, that its provisions shall apply only to bills of costs entered on or after such date, regardless of when the claim accrued or the action was commenced.

III. New or Modified Measures

1. Statute of Limitations Applicable to Toxic Tort Actions (CPLR 214, 214-c (new)) (modified measure)

In the interest of fairness, the Committee recommends a new statute of limitations to be applicable to actions based on latent injuries allegedly caused by exposure to toxic or harmful substances or hazardous wastes, the running of which would be triggered by discovery of the injury and the cause thereof.

This measure would add a new section 214-c to the CPLR to provide for a two-year statute of limitations which begins to run when a plaintiff discovers or could with reasonable diligence have discovered his or her injury and the cause thereof where such injury was caused by contact with a toxic or harmful substance or hazardous waste. It would apply to personal injuries and injuries to property caused by any exposure to or contact with such substance or waste. Other technical amendments are included.

This measure would become effective upon enactment and be applicable to every action commenced after the effective date. However, no action previously barred by the existing statute of limitations would be revived.

Personal injuries and injuries to property caused by toxic or harmful substances or hazardous wastes often do not manifest themselves until many years after the last exposure. Under existing law, the statute of limitations begins to run at the time the cause of action accrues (CPLR 203[a]), which has been interpreted to mean from the date of the last exposure. *Schmidt* v. *Merchants Desp. Trans. Co.*, 270 N.Y. 287 (1936); *Schwartz* v. *Heyden Chemical Corp.*, 12 N.Y.2d 212 (1963); *Thornton* v. *Roosevelt Hosp.*, 47 N.Y.2d 780 (1979); *Steinhardt* v. *Johns-Manville Corp.*, 54 N.Y.2d 1008 (1981). The current three-year statute of limitations (CPLR 214) thus creates a severe injustice, as the time within which an action can be brought often expires before the potential plaintiff discovers or could have discovered his or her injuries and the cause thereof. This measure is intended to change the law as enunciated in that line of cases.

Many bills, with varying provisions, have been introduced in recent years for the creating of a statute of limitations which begins to run from the time of discovery rather than the time of last exposure.

The unfairness of the existing rule has been widely recognized. Thirty-six jurisdictions have adopted some form of discovery rule in these types of personal injury and property damage cases. In ten jurisdictions, the rule has been enacted by the Legislature; in the other twenty-six jurisdictions, a discovery rule has been adopted by means of judicial decision. However, the Court of Appeals has made it clear in *Thornton* and in *Steinhardt* that it is not prepared to adopt such a rule, but believes that any change should be made by the Legislature.

In *Martin* v. *Edwards Labs.*, 60 N.Y.2d 417, 426 (1983), the Court of Appeals again "reaffirmed the rule that the time to sue for injuries resulting from inhalation, ingestion or injection of harmful substances runs from the last exposure, not from discovery of the injury." It is, therefore, up to the Legislature to act.

Basic fairness dictates that a cause of action based on an injury caused by a toxic or harmful substance or hazardous waste not be barred prior to the time the plaintiff becomes aware of the injury and its cause.

The Advisory Committee on Civil Practices studied this issue for many months before deciding to propose this measure. It carefully examined the various alternatives proposed in other bills which have been introduced, and reviewed the laws of other jurisdictions. Although some Committee members would have preferred a somewhat different discovery rule than that proposed, the committee believes that it is time for New York to adopt a discovery rule. Other members of the Committee would have preferred a bill that also creates a discovery rule in wrongful death actions (in addition to actions for personal and property damage).

The Committee's proposal provides for a two-year statute of limitations that commences to run from the date of the discovery of the injury and its cause. It should be noted that the Committee's measure is not intended to reduce the current three-year statute of limitations in personal injury and property damage actions measured from the date of the accrual of the cause of action, *i.e.*, date of injury. Therefore, a plaintiff with such a cause of action would have the option of instituting the action within three years of his or her injury pursuant to CPLR 203(a) and 214, or within two years of the discovery of the injury and its cause pursuant to CPLR 214-c, whichever period is longer.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to the statue of limitations for action to recover damages from toxic or harmful substances or hazardous wastes

Section 1. Section two hundred fourteen of the civil practice law and rules, as amended by chapter seven hundred sixty of the laws of nineteen hundred eighty-five, is amended to read as follows:

§214. Actions to be commenced within three years: for non-payment of money collected on execution; for penalty created by statute; to recover chattel; for injury to property; for personal injury; for malpractice other than medical or dental malpractice; to annul a marriage on the ground of fraud.

The following actions must be commenced within three years:

1. an action against a sheriff, constable or other officer for the non-payment of money collected upon an execution;

2. an action to recover upon a liability, penalty or forfeiture created or imposed by statute except as provided in sections 213 and 215;

3. an action to recover a chattel or damages for the taking or detaining of a chattel;

4. an action to recover damages for an injury to property, *except as provided in section 214-c;*

5. an action to recover damages for a personal injury except as provided in section 214-b, *214-c* and 215;

6. an action to recover damages for malpractice, other than medical or dental malpractice; and

7. an action to annul a marriage on the ground of fraud; the time within which the action must be commenced shall be computed from the time the plaintiff discovered the facts constituting the fraud, but if the plaintiff is a person other than the spouse whose consent was obtained by fraud, the time within which the action must be commenced shall be computed from the time, if earlier, that the spouse discovered the facts constituting the fraud.

§2. Such law and rules is amended by adding a new section two hundred fourteen-c to read as follows:

§214-c. *Action for damages from toxic or harmful substances or hazardous wastes. An action to recover damages for personal injury or injury to property caused by a toxic or harmful substance or a hazardous waste shall be barred unless instituted within the period provided in section 214 or, if that period has expired, within two years of the date plaintiff discovered or with reasonable diligence could have discovered such injury and the cause thereof.*

§3. An action to recover damages for a wrongful act, neglect or default causing death arising or resulting from a toxic or harmful substance or a hazardous waste shall be governed by section 5-4.1 of the estates, powers and trusts law.

§4. This act shall take effect immediately and shall apply in every action and proceeding hereafter commenced.

2. Service of Process by Mail

(CPLR 306(d)); CPLR 312-a (new); CPLR 8301(a) (11) (12) (new) (13); CCA §1908 (f) (new); UDCA §1908 (f) (new); UCCA §1908 (f) (new); UJCA §1908 (f) (new) (new measure)

The Advisory Committee proposes the adoption of a provision permitting, as an alternative to the methods of personal service of process now set forth in the CPLR, personal service of process by mail. It adds a new CPLR 312-a, applicable to civil practice generally, and adds related and supplemental provisions for taxation of disbursements to the CPLR, the New York City Civil Court Act and the Uniform Court Acts.

Service of process by personal delivery has generated growing problems of expense to litigants. The frequency of traverses and of litigation concerning whether or not personal service actually was obtained, the frequent need to resort to substituted service, and recurring reports of sewer service all add to the advisability of devising a cheaper, surer and more efficient means of personal service.

In its search for viable alternatives, the Advisory Committee was favorably impressed by its investigation of new Federal Rule 4(c) (2) (C) (ii), enacted by Congress in 1983 (Pub. L. 97-462) and operative in the Federal courts since February 26, 1983. The rule provides for service of process by mail, with acceptance of such service optional with the defendant. Failure to timely acknowledge receipt and acceptance of service by the defendant requires the plaintiff to resort to other more expensive methods of service, but with the defendant liable for the expense of service.

This method of service of process by mail has been successful in those courts where it currently is being used. The Committee is advised by the clerks' offices of the United States District Courts for the Southern and Eastern Districts of New York that mail service is working well and is used by a majority of attorneys. The Committee also is advised that the State courts in California have adopted this optional method of service. Service of process by mail now is universally used in the small claims courts throughout the state (as authorized by §1803 of the New York Civil Court Act and the Uniform Court Acts), and the Committee has been advised that judges and attorneys involved in landlord and tenant matters favor the concept of service of process by mail.

This measure follows in large part the successful federal model, as improved by greater specificity to avoid some ambiguities pointed out in the federal scheme. It provides that service of process may be made by mailing, by first class mail, postage prepaid, a copy of the summons and complaint or a copy of the summons and notice and that two copies of a statement of service by mail and instruction form and an acknowledgment of service form be enclosed, together with a self-addressed, stamped return envelope. If no acknowledgment of service is received by the sender, the sender may resort to the other methods of service now prescribed by the CPLR.

Both the statement and instruction form and the acknowledgment of receipt form must be signed under penalty of perjury. The action is commenced and service is complete on the date the signed acknowledgment of receipt is mailed or delivered to the sender. The statement contains a warning that it is a crime to forge a signature or to make false entry on the statement or the acknowledgment. Both statements are to be subscribed and affirmed under penalty of perjury analogous to affirmations under CPLR 2106.

To encourage the acknowledgment of mail service, this measure provides that, if the acknowledgment is not returned to the sender, the court clerk is authorized to tax as a disbursement the expense of service of process by another method and to enter this as a judgment, unless an affidavit alleging nonservice of the summons and complaint or summons and notice is submitted in opposition. Court clerks are experienced in allowing reasonable expenses when taxing costs, and they will be guided in allowing this disbursement by receipted bills, by supporting affidavits, and where necessary, by what their experience shows generally is charged for such service by process servers and publishers. Of course, a party against whom a judgment for such costs is to be entered may object, by affidavit, to the taxation of this disbursement. Where there is a default in appearance and, therefore, taxation of costs on judgment is permitted without prior notice (*see* CPLR 8402), a retaxation of costs readily can be obtained by the defendant under CPLR 8403 after service of the required subsequent notice.

Since Federal law restricts the taking of default judgment against persons in military service, the acknowledgment requires the person served to state whether he or she is in military service. If in service, such person is required to state his or her rank, serial number and branch of service in the space provided in the acknowledgment form. Failure to supply the required information would signify that such person is not in military service and thus facilitate the entry of a default judgment if no answer is served.

This method of personal service by mail is an optional and alternative method of personal service. The right to use other methods authorized by Article 3 of the CPLR is preserved, which is especially significant for those who wish to effect service immediately or who are concerned about the running of the statute of limitations.

This measure should facilitate and lessen the expense of making personal service in New York and result in a decrease in the litigation of issues of service.

Proposal

AN ACT

To amend the civil practice law and rules, the New York City civil court act, the uniform district court act, the uniform city court act and the uniform justice court act, in relation to service of process by mail

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (d) of section three hundred six of the civil practice law and rules, as such section was amended by chapter one hundred three of the laws of nineteen hundred seventy-seven, is amended to read as follows:

(d) Form. Proof of service shall be in the form of a certificate if the service is made by a sheriff or other authorized public officer or in the form of an affidavit if made by any other person, *in the form of a signed acknowledgment of receipt of a summons and complaint or summons and notice as provided for in section 312-a.*

§2. Such law and rules is amended to add a new section, to be section three hundred twelve-a, to read as follows:

§312-a. Personal service by mail. (a) Service. A summons and complaint or summons and notice may be served by mailing to the person or entity to be served, by first class mail, postage prepaid, a copy of the summons and complaint or summons and notice, together with two copies of a statement of service by mail and acknowledgment of receipt in the form set forth in subdivision (e), with a return envelope, postage prepaid, addressed to the sender.

(b) Completion of service and time to answer. A person must complete the acknowledgment and mail or deliver a copy of it within 20 days from the date of receipt. An action is commenced and service is complete on the date the signed acknowledgment of receipt is mailed or delivered to the sender.

(c) Disbursements. Unless good cause is shown for not returning the signed ackowledgment of receipt within twenty days after receipt of the documents mailed pursuant to subdivision (a), the reasonable cost of serving process by means other than mail shall be taxed as a disbursement. The clerk of the court is authorized to tax the disbursement and to enter judgment upon the amount of the disbursement upon presentation of proof of such disbursement, unless an affidavit alleging nonreceipt of the summons is submitted to the clerk.

(d) Affirmation. The signed ackowledgment of receipt shall constitute proof of service. The statement of service by mail and the acknowledgment of such service shall be subscribed and affirmed as true under penalties of perjury and shall have the same force and effect as an affidavit.

(e) Form. The statement regarding service by mail and the acknowledgment of such service by mail shall be in substantially the following form:

Statement of Service by Mail and Acknowledgement of Receipt of Summons and Complaint or Summons and Notice by Mail

[*caption*]

Statement of Service By Mail

To: (insert the name and address of the person or entity to be served). The enclosed summons and complaint, or summons and notice, are served pursuant to section 312-a of the Civil Practice Law and Rules.

To avoid being charged with the expense of service upon you, you must sign, date and complete the acknowledgment part of this form and mail or deliver one copy of the completed form to the sender within twenty (20) days from the date you receive it. If you wish to consult an attorney, you should do so as soon as possible before the twenty (20) days expire.

If you do not complete and return the form to the sender within twenty (20) days, you (or the party on whose behalf you are being served) may be required to pay expenses incurred in serving the summons and complaint or summons and notice in any other manner permitted by law, and the cost of such service may be entered as a judgment against you.

The return of this statement and acknowledgment does not relieve you of the necessity to answer the complaint or notice. The time to answer expires twenty (20) days after you mail or deliver this form to the sender.

If you are served on behalf of a corporation, unincorporated association, partnership or other entity, you must indicate under your signature your relationship to the entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

It is a crime to forge a signature or to make a false entry on this statement or on the acknowledgment.

I affirm as true, under penalty of perjury, that this Statement of Service by Mail and Acknowledgment of Receipt of Summons and Complaint or Summons and Notice will have been mailed on (insert date).

____
Signature

____
Print name

____
Address

Acknowledgment of Receipt of Summons and Complaint or Summons and Notice

I received a summons and complaint, or summons and notice, in the above-captioned matter at (insert address). PLEASE CHECK ONE OF THE FOLLOWING; IF 2 IS CHECKED, COMPLETE AS INDICATED:

1. ☐ I am not in military service.

2. ☐ I am in military service, and my rank, serial number and branch of service are as follows:

Rank ________________________

Serial Number ________________________

Branch of Service ________________________

Date: ______________________________
(Date this Acknowledgment is executed)

I affirm the above as true under penalty of perjury.

____
Signature

____
Print name

____
Relationship for Entity/Authority to Receive Service of Process

§3. Paragraph eleven of subdivision (a) of section eighty-three hundred one of such law and rules, is amended to read as follows:

11. the reasonable expenses actually incurred in securing an undertaking to stay enforcement of a judgment subsequently reversed; [and]

§4. Subdivision (a) of section eighty-three hundred one of such law and rules is amended to renumber paragraph twelve as paragraph thirteen, and to insert a new paragraph twelve, to read as follows:

12. the reasonable expenses actually incurred in serving a summons and complaint or summons and notice when the party to be served fails to return a duly executed acknowledgment of service by mail made pursuant to section 312-a; and

§5. Section nineteen hundred eight of the New York City civil court act is amended to reletter subdivision (f) as subdivision (g) and to insert a new paragraph (f), to read as follows:

(f) The reasonable expenses actually incurred in serving a summons and complaint or summons and notice when the party to be served fails to return a duly executed

acknowledgment of service by mail made pursuant to section 312-a of the CPLR.

§6. Section nineteen hundred eight of the uniform district court act is amended to reletter subdivision (f) as subdivision (g), and to insert a new subdivision (f) to read as follows:

(f) The reasonable expenses actually incurred in serving a summons and complaint or summons and notice when the party to be served fails to return a duly executed acknowledgment of service by mail made pursuant to section 312-a of the CPLR.

§7. Section nineteen hundred eight of the uniform city court act is amended to reletter subdivision (f) as subdivision (g), and to insert a new subdivision (f), to read as follows:

(f) The reasonable expenses actually incurred in serving a summons and complaint or summons and notice when the party to be served fails to return a duly executed acknowledgment of service by mail made pursuant to CPLR 312-a.

§8. Section nineteen hundred eight of the uniform justice court act is amended to reletter subdivision (f) as subdivision (g), and to insert a new subdivision (f), to read as follows:

(f) The reasonable expenses actually incurred in serving a summons and complaint or summons and notice when the party to be served fails to return a duly executed acknowledgment of service by mail made pursuant to CPLR 312-a.

§9. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

3. Disclosure
(CPLR Article 31) (modified measure)

The Committee recommends the general revision of CPLR Article 31 (Disclosure) in order to ensure fairness to litigants and to effect the expeditious disposition of civil actions.

This measure would amend Article 31 of the Civil Practice Law and Rules (Disclosure) to accomplish (1) liberalization of disclosure, (2) codification of New York case law by the substitution of the relevancy standard of admissibility of evidence for the "material and necessary" standard, (3) greater statewide uniformity in disclosure proceedings, (4) imposition of adequate sanctions, such as the payment of costs and reasonable attorneys' fees against parties who ignore or misuse the disclosure process, and (5) reduction of motion practice by more informal procedures and by sanctions against frivolous or unnecessary motions.

An explanatory commentary upon this measure follows:

Section 3101
Subdivision (a)

The preamble of subdivision (a) of section 3101 would be amended to permit disclosure of "relevant" matter. This change would reflect the broad interpretation given to the existing "material and necessary" standard by the Court of Appeals in *Allen* v. *Crowell-Collier Publishing Co.*, 21 N.Y.2d 403 (1968), and would conform the statutory language to the standard that is generally applied in practice. *See Hoenig* v. *Westphal*, 52 N.Y.2d 605, 608 (1981); *Prink* v. *Rockefeller Center, Inc.*, 48 N.Y.2d 309, 314 n. 1 (1979). The amendment also would make it clear that disclosure is not limited to information and materials which would be admissible as evidence at trial.

With respect to matrimonial actions and custody and visitation proceedings, however, the Committee does not intend to affect existing or evolving statutes and decisional law as to the availability of disclosure.

Adequate protection against abuse of disclosure procedures is afforded by the power of the court under section 3103(a) to make a protective order "to prevent unreasonable annoyance, expense, embarrassment disadvantage, or other prejudice to any person or the courts", by the proposal in this bill for financial sanctions, and by the requirement for special circumstances under section 3101(a) (3) or for a statement of circumstances or reasons for disclosure under section 3101(a) (4).

Section 3101(a) (3) would be amended to list persons authorized to practice dentistry so that it technically conforms to section 3101(d) (1) (ii) which relates to disclosure by medical and dental experts, as enacted by Chapter 294 of the Laws of 1985.

Subdivision (b)

Subdivision (b) would be amended to reflect the fact that the holder of the privilege in question need not be a party to the action in order to invoke the privilege.

Subdivision (h)

New subdivision (h) woud explicitly allow discovery of the identity and location of all persons, such as eye and notice witnesses, having knowledge of any discoverable matter. This provision would overrule those New York decisions holding that the work product rule, which would be retained intact in subdivision (c), applies to the names and addresses of witnesses located by an attorney in the course of an investigation conducted in preparation for trial. *See Zayas* v. *Morales*, 45 A.D.2d 610, 613 (2d Dep't 1974). A party making a request for information pursuant to subdivision (h) would, of course, be required to frame the request with a reasonable degree of specificity as to the discoverable matters with respect to which the request is being made. A bald request for information concerning "all persons having knowledge of any discoverable matter" would ordinarily be unreasonable.

Subdivision (i)

The CPLR does not contain a provision comparable to Fed. R. Civ. P. 26(e) explicitly requiring a party under certain circumstances promptly to supplement or amend responses to disclosure requests. New subdivision (i) would incorporate the substance of the federal rule, which, the committee believes, establishes a reasonable balance between the need to maintain the integrity of responses to disclosure requests and the need to avoid imposing on a party a burdensome obligation to review and update on a continuing basis responses to disclosure requests. New subdivision (i) would apply to all disclosure devices.

Rules 3102(c)

The requirements for the recording of depositions and documents obtained for an action involving title to real property would be deleted. The Committee believes that the inconvenience of such recording and the possibility that it might create an unjustified cloud on title to property outweighs what little benefit such recording might have in alerting title searchers to any claim involving title to the property in question.

Section 3103(a)

Subdivision (a) would be amended to make it clear that any person who is the subject of a discovery request, whether or not a party or a witness, is entitled to move for a protective order.

Rule 3108

The taking of a deposition upon written questions is an inexpensive method of conducting discovery and may be appropriate in a number of situations not recognized by rule 3108 in its existing form. The proposed amendment would eliminate the "undesirable" limitations on the taking of a deposition upon written questions. See 3A Weinstein, Korn & Miller N.Y. Civ. Prac. §§3108.02, 3108.03.

Rules 3113(a) (2)

The amendment would eliminate a formal discrepancy between federal and state practice created by the 1980 amendment to Fed. R. Civ. P. 28(a).

Rule 3116(a)

The amendment would in effect extend the 1978 amendment of subdivision (a) to eliminate the requirement that a deposition be signed by the officer before whom it was taken if the witness fails or refuses to sign it. The requirement, which is inconvenient to comply with if the officer is not readily located, serves no significant purpose, since the officer must in any event rely upon representations or statements of a party or the witness as to the fact that the latter failed or refused to sign the deposition and the reasons therefor.

Rule 3120(a)

The purpose of the requirement in Rule 3120(a) that a party designate the items he or she seeks to inspect should be to enable the party served with the notice to determine what items are requested and to enable the court to determine whether the requested items have been produced. *Cf.* 8 Wright & Miller, *Federal Practice and Procedure* §2211 at 631. The present requirement that the requested items be "specifically" designated lends itself to a restrictive interpretation under which technical defects may frustrate reasonable discovery requests. In addition, a party frequently must conduct a deposition in order to obtain the information enabling that party to designate the requested items with the required specificity. *See, e.g., King* v. *Morris*, 57 A.D.2d 530 (1st Dep't 1977). This result has been justified on the theory that the deposition may be necessary for proper resolution of objections to the discovery request. *Rios* v. *Donovan*, 21 A.D.2d 409, 413-14 (1st Dep't 1964). The Committee believes that a party who can reasonably identify a requested item or category of items should not need to conduct a deposition in order to establish the existence and specific indentities of the requested items. In most instances, the Committee believes, pretrial discovery will be conducted more efficiently and effectively if a party can obtain materials for use in preparing for a deposition. If the party to whom the request is made objects on the ground that it is unduly burdensome, includes materials which are not discoverable, or is improper in some similar respect, the party should state the objections pursuant to Rule 3122 "rather than seeking shelter behind a claim of insufficient designation." 8 Wright & Miller, *supra*, at 634.

Rule 3122

The amendment of Rule 3122 is intended to reduce the volume of motion practice arising out of disclosure procedures by eliminating the requirement that objections to requests for production of documents or other things or for physical or mental examinations be made by motion. The Committee believes that the notice procedure required by the amendment would encourage parties to resolve disputes concerning such requests without court intervention. In the event that a dispute is not so resolved, the party seeking disclosure may move for an order compelling disclosure pursuant to the proposed new Section 3124.

The proposed amendment to Rule 3122 also would enlarge the time for objecting to a disclosure request.

Section 3123(a)

By disposing of issues which are not a genuine subject of dispute, the request for an admission serves to eliminate unnecessary expenses and complications. The deletion of the clause "at the trial" in the first sentence of subdivision (a) would make it clear that a request for an admission may be used even if the parties contemplate settlement rather than trial or where the issue as to which an admission is sought is one which is relevant to the cause but not expected to arise at trial, such as an issue raised by pretrial motions, including motions relating to disclosure. The clause inserted in the third sentence of subdivision (a) is intended to improve the usefulness of requests for an admission by preventing a party from routinely denying a request on the ground of lack of knowledge when the information needed to form a definitive response is available with reasonable effort.

Rules 3124 (new)

The text of what is now Rule 3124 would be revised to achieve greater clarity and simplicity and to delete the requirement that a person move for a protective order in order to preserve objections to a disclosure request. This should encourage parties to resolve disputes over disclosure matters on their own without resort to the Court and also should serve to narrow the scope of motions regarding disclosure matters, since ordinarily the motion would be made as a motion to compel disclosure after the person from whom disclosure was sought had complied with so much of the disclosure request as to which no objection was raised.

The reference to the right of a party to obtain local remedies for failure to comply with a disclosure request would be deleted as unnecessary; the Committee does not intend to suggest that Section 3124 preempts other applicable law.

Section 3126

The words "failure" and "fails" would be substituted for "refusal" and "refuses" in order to obtain stylistic conformity within section 3126 and with proposed new section 3124. The amendment also would make it clear that failure to comply with a court order, even if not wilful, may in appropriate circumstances be grounds for imposing one or more of the enumerated sanctions. The substitution of the clause "this article" for "notice duly served" would make it clear that a wilful failure to disclose information within the meaning of section 3126 includes a wilful failure to amend or supplement a response to a disclosure request as required under new subdivision (i) of section 3101.

Section 3127 (new)

The only practical way of reducing the volume of motion practice over disclosure matters is to require those who are responsible for improper disclosure requests or improper objections to or noncompliance with disclosure requests to compensate their adversaries for the costs and expenses of obtaining appropriate relief from the Court. The purpose of new section 3127 would be to make the awarding of costs and expenses, including attorney's fees, the rule rather than the exception. The Court would have discretionary power to direct submission of affidavits or to hold a hearing on the amount of attorney's fees to be awarded.

Section 3130(1)

Subdivision (1) of section 3130 would be amended to delete a clause which, as was noted when it was added in 1979, *see* 3A Weinstein, Korn & Miller N.Y. Civ. Prac. §3130.02, perpetuates an unjustified distinction between negligence and wrongful death actions and other types of actions.

Rules 3132

The first sentence of Rule 3132 would be deleted as an unnecessary repetition of the first sentence of subdivision (1) of section 3130. The prescriptive period during which a plaintiff may not serve interrogatories upon a defendant would be revised to parallel the amendment of Rule 3106. The amendment also would delete, as an unnecessary formality, the requirement that a defendant obtain leave of court in order to serve interrogatories upon the plaintiff within five days of service of the summons and complaint, and would conform Rule 3132 to Rule 3106 by removing the clause permitting a party to obtain special priority through an *ex parte* motion.

Rule 3133

The amendment of Rule 3133 would consolidate present Rules 3133 and 3134. Paralleling the proposed amendment of Rule 3122, subdivision (a) of Rule 3133 would be amended to eliminate the requirement that an objection to an interrogatory be made by motion. Subdivision (b) of Rule 3133 would be deleted as unnecessary in light of the amendment of subdivision (a).

Rule 3134

Rule 3134 would be deleted since its provisions would be incorporated into the amended Rule 3133.

Section 3140

Section 3140 would be amended to correct a misspelling in the caption and to clarify that the responsibility for making procedural rules governing the exchange of appraisal reports is vested in the Chief Administrator of the Courts in conformity with Judiciary Law, section 212(2)(d). This amendment also is in furtherance of one of the purposes of this measure, the assurance of greater statewide uniformity in respect to disclosure procedures.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to disclosure

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-one hundred one of the civil practice law and rules, as paragraph 3 of subdivision (a) thereof was amended by chapter two hundred sixty-eight of the laws of nineteen hundred seventy-nine, and as paragraph 4 of subdivision (a) thereof was amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, and as subdivision (d) thereof was amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-five, and as subdivision (f) thereof was added by chapter six hundred sixty-eight of the laws of nineteen hundred seventy-five, and as subdivision (g) thereof was added by chapter two hundred eighty-three of the laws of nineteen hundred eighty, is amended to read as follows:

§3101. Scope of disclosure.

(a) Generally. There shall be full disclosure of all [evidence material and necessary in] *matter relevant to* the prosecution or defense of an action, regardless of the burden of proof, by:

(1) a party, or the officer, director, member, agent or employee of a party;

(2) a person who possessed a cause of action or defense asserted in the action;

(3) a person about to depart from the state, or without the state, or residing at a greater distance from the place of trial than one hundred miles, or so sick or infirm as to afford reasonable grounds of belief that he will not be able to attend the trial, or a person authorized to practice medicine *or dentistry* who has provided medical *or dental* care or diagnosis to the party demanding disclosure, or who has been retained by him as an expert witness; and

(4) any other person, upon notice stating the circumstances or reasons such disclosure is sought or required.

(b) Privileged matter. Upon objection [by a party] privileged matter shall not be obtainable.

(c) Attorney's work product. The work product of an attorney shall not be obtainable.

(d) Trial preparation.

1. Experts. (i) Upon request, each party shall identify each person whom the party expects to call as an expert witness at trial and shall disclose in reasonable detail the subject matter on which each expert is expected to testify, the substance of the facts and opinions on which each expert is expected to testify, the qualifications of each expert witness and a summary of the grounds for each expert's opinion. However, where a party for good cause shown retains an expert an insufficient period of time before the commencement of trial to give appropriate notice thereof, the party shall not thereupon be precluded from introducing the expert's testimony at the trial solely on grounds of noncompliance with this paragraph. In that instance, upon motion of any party, made before or at trial, or on its own initiative, the court may make whatever order may be just. In an action for medical or dental malpractice, a party, in responding to a request, may omit the names of medical or dental experts but shall be required to disclose all other information concerning such experts otherwise required by this paragraph.

(ii) Further disclosure concerning the expected testimony of any expert may be obtained only by court order upon a showing of special circumstances and subject to restrictions as to scope and provisions concerning fees and expenses as the court may deem appropriate. However, a party, without court order, may take the testimony of a person authorized to practice medicine or dentistry who is the party's treating or retained expert, as described in paragraph three of subdivision (a) of this section, in which event any other party shall be entitled to the full disclosure authorized by this article with respect to that expert without court order.

2. Materials. Subject to the provisions of paragraph one of this subdivision, materials otherwise discoverable under subdivision (a) of this section and prepared in anticipation of litigation or for trial by or for another party, or by or for that other party's representative (including an attorney, consultant, surety, indemnitor, insurer or agent), may be obtained only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of the materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation.

(e) Party's statement. A party may obtain a copy of his own statement.

(f) Contents of insurance agreement. A party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purpose of this subdivision, an application for insurance shall not be treated as part of an insurance agreement.

(g) Accident reports. Except as otherwise provided by law, in addition to any other matter which may be subject to disclosure, there shall be full disclosure of any written report of an accident prepared in the regular course of business operations or practices of any person, firm, corporation, association or other public or private entity, unless prepared by a police or peace officer for a criminal investigation or prosecution and disclosure would interfere wth a criminal investigation or prosecution.

(h) Persons having knowledge. A party shall disclose the names and addresses of all persons having knowledge of any matter discoverable under this section.

(i) Amendment or supplementation of responses. A party who has responded to a request for disclosure shall promptly amend or supplement the response upon the party's thereafter obtaining information that the response was incorrect when made or that the response, though correct and complete when made, is no longer correct and complete and the circumstances are such that a failure to amend or supplement the response would be materially misleading. Further amendment or supplementation may be obtained by court order.

§2. Subdivision (c) of rule thirty-one hundred two of such law and rules is amended to read as follows:

(c) Before action commenced[; real property actions]. Before an action is commenced, disclosure to aid in bringing an action, to preserve information or to aid in arbitration, may be obtained, but only by court order. The court may appoint a referee to take testimony. [Where such disclosure is obtained for use in an action involving title to real property the deposition or other document obtained shall be promptly recorded in the office of the clerk of the county in which the real property is situated.]

§3. Subdivision (a) of section thirty-one hundred three of such law and rules is amended to read as follows:

(a) Prevention of abuse. The court may at any time on its own initiative, or on motion of any party [or witness] *or of any person from whom discovery is sought,* make a protective order denying, limiting, conditioning or regulating the use of any disclosure device. Such order shall be designed to prevent unreasonable annoyance, expense, embarrassment, disadvantage, or other prejudice to any person or the courts.

§4. Rule thirty-one hundred eight of such law and rules, as redesignated by chapter three hundred eighteen of the laws of nineteen hundred sixty-two, and as amended by chapter five hundred thirty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3108. Written questions [; when permitted].

A deposition may be taken on written questions [when the examining party and the deponent so stipulate or when the testimony is to be taken without the state]. A commission or letters rogatory may be issued where necessary or convenient for the taking of a deposition outside of the state.

§5. Paragraph 2 of subdivision (a) of rule thirty-one hundred thirteen of such law and rules is amended to read as follows:

2. Without the state but within the United States or within a territory or possession subject to the [dominion] *jurisdiction* of the United States, a person authorized to take acknowledgements of deeds outside of the state by the real property law of the state or to administer oaths by the laws of the United States or of the place where the deposition is taken; and

§6. Subdivision (a) of rule thirty-one hundred sixteen of such laws and rules, as amended by chapter two hundred ninety-two of the laws of nineteen hundred seventy-eight, is amended to read as follows:

(a) Signing. The deposition shall be submitted to the witness for examination and shall be read to or by him, and any changes in form or substance which the witness desires to make shall be entered at the end of the deposition with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness before any officer authorized to administer an oath [, except that a witness who is an adverse party shall not be required to sign such desposition upon thirty days prior written notice to return the examination signed]. If [a] *the* witness [, other than an adverse party,] fails to sign the deposition, [the officer before whom the deposition was taken shall sign it and state on the record the fact of the witness' failure or refusal to sign, together with any reason given. The deposition] *it* may [then] be used as fully as though signed.

§7. Subdivision (a) of rule thirty-one hundred twenty of such law and rules, as redesignated by chapter three hundred fifteen of the laws of nineteen hundred sixty-two, and as amended by chapter two hundred ninety-four of the laws of nineteen hundred eighty-four, is amended to read as follows:

(a) As against party:

1. After commencement of an action, any party may serve on any other party notice:

(i) to produce and permit the party seeking discovery, or someone acting on his behalf, to inspect, copy, test or photograph any [specifically] designated documents or any things which are in the possession, custody or control of the party served [, specified with reasonable particularity in the notice]; or

(ii) to permit entry upon designated land or other property in the possession, custody or control of the party served for the purpose of inspecting, measuring, surveying, sampling, testing, photographing or recording by motion pictures or otherwise the property or any [specifically] designated object or operation thereon.

2. The notice shall specify the time, which shall be not less than twenty days after service of the notice, and the place and manner of making the inspection, copy, test or photograph, or of the entry upon the land or other property *and, in the case of an inspection, copying, testing or photographing, shall set forth the items to be inspected, copied, tested or photographed by individual item or by cateogry, and shall describe each item and category with reasonable particularity.*

§8. Rule thirty-one hundred twenty-two of such law and rules, as amended by chapter eighty of the laws of nineteen hundred seventy-nine, is amended to read as follows:

Rule 3122. Objection to [discovery] *disclosure,* inspection or examination.

Within [ten] *twenty* days of service of a notice under rule 3120 or section 3121, [a] *the* party *to whom the notice is directed* [may serve a notice of motion for a protective order, specifying his objections.] , *if that party objects to the disclosure, inspection or examination, shall serve a response which shall state with reasonable particularity the reasons for each objection. If objection is made to part of an item or category, the part shall be specified. The party seeking disclosure under rule 3120 or section 3121 may move for an order under rule 3124 with respect to any objection to, or other failure to respond to or permit inspection as requested by, the notice or any part thereof.*

§9. Subdivision (a) of section thirty-one hundred twenty-three of such law and rules, as amended by chapter five hundred thirty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

(a) Notice to admit; admission unless denied or denial excused. At any time after service of the answer or after the expiration of twenty days from service of the summons, whichever is sooner, and not later than twenty days before the trial, a party may serve upon any other party a written request for admission by the latter of the genuineness of any papers or documents, or the correctness or fairness of representation of any photographs, described in and served with the request, or of the truth of any matters of fact set forth in the request, as to which the party requesting the admission reasonably believes there can be no substantial dispute [at the trial] and which are within the knowledge of such other party or can be ascertained by him upon reasonable inquiry. Copies of the papers, documents or photographs shall be served with the request unless copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless within twenty days after service thereof or within such further time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a sworn statement either denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny those matters, *or, if the denial is based upon lack of knowledge, that the means of securing such knowledge is not reasonably available to the party.* If the matters of which an admission is requested cannot be fairly admitted without some material qualification or explanation, or if the matters constitute a trade secret or such party would be privileged or disqualified from testifying as a witness concerning them, such party may, in lieu of a denial or statement, serve a sworn statement setting forth in detail his claim and, if the claim is that the matters cannot be fairly admitted without some material qualification or explanation, admitting the matters with such qualification or explanation.

§10. Rule thirty-one hundred twenty-four of such law and rules is REPEALED, and a new section, to be section thirty-one hundred twenty-four, is added, to read as follows:

§3124. Failure to disclose; motion to compel disclosure.

If a person fails to respond to or comply with any request, notice, interrogatory, demand, question or order under this article, except a notice to admit under section 3123, the party seeking disclosure may move to compel compliance or a response. For purposes of this rule, an evasive or incomplete answer is a failure to comply.

§11. Section thirty-one hundred twenty-six of such law and rules, as amended by chapter forty-two of the laws of nineteen hundred seventy-eight, is amended to read as follows:

§3126. Penalties for [refusal] *failure* to comply with order or to disclose.

If any party, or a person who at the time a deposition is taken or an examination or inspection is made [,] is an officer, director, member, employee or agent of a party or otherwise under a party's control, [refuses] *fails* to obey an order for disclosure or wilfully fails to disclose information which the court finds ought to have been disclosed pursuant to [notice duly served] *this article,* the court may make such orders with regard to the failure [or refusal] as are just, among them:

1. an order that the issues to which the information is relevant shall be deemed resolved for purposes of the action in accordance with the claims of the party obtaining the order; or

2. an order prohibiting the disobedient party from supporting or opposing designated claims or defenses, from producing in evidence designated things or items of testimony, or from introducing any evidence of the physical, mental or blood condition sought to be determined, or from using certain witnesses; or

3. an order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or any part thereof, or rendering a judgment by default against the disobedient party.

§12. Such law and rules are amended by adding a new section, to be section thirty-one hundred twenty-seven of such law and rules, to read as follows:

§3127. Award of costs and expenses of motions.

(a) If a motion under section 3103, 3124, or 3126 is granted, the court shall require the party or person whose conduct necessitated the motion or the attorney advising such conduct or both to pay to the moving party the costs and reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

(b) If a motion under section 3103, 3124, or 3126 is denied, the court shall require the moving party or the attorney advising the motion or both to pay to the party or person who opposed the motion the costs and reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or excusable or that other circumstances make an award of costs and expenses unjust.

(c) If a motion under section 3103, 3124, or 3126 is granted in part and denied in part, the court shall apportion costs and reasonable expenses incurred in relation to the motion, including attorney's fees, among the parties and persons in a just manner.

§13. Subdivision one of section thirty-one hundred thirty of such law and rules, as so designated by chapter two hundred seventy-five of the laws of nineteen hundred eighty-three, and as amended by chapter one hundred ninety-seven of the laws of nineteen hundred seventy-nine, is amended to read as follows:

1. After commencement of an action, any party may serve upon any other party written interrogatories. A party may not serve written interrogatories on another party and also demand a bill of particulars pursuant to section 3041 [nor, in the case of an action to recover damages for an injury to property or a personal injury resulting from negligence or wrongful death, take a deposition pursuant to role 3107] without leave of court.

§14. Rule thirty-one hundred thirty-two of such law and rules, as added by chapter four hundred twenty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3132. [Service] *Normal priority* of interrogatories.

[After commencement of an action, any party may serve upon any other party written interrogatories.] If service *of written interrogatories* is made by any plaintiff upon any defendant [within twenty days after service upon him of the summons and complaint, or service is made by any defendant upon the plaintiff within five days after service upon him of the summons and complaint] *before that defendant's time for serving a responsive pleading has expired,* leave of court granted [with or without notice] *on motion* must be obtained. A copy of the interrogatories and of any order made under this rule shall be served on each party.

§15. Rule thirty-one hundred thirty-three of such law and rules, as added by chapter four hundred twenty-two of the laws of nineteen hundred sixty-three, is amended to read as follows:

Rule 3133. [Objections] *Service of answers or objections* to interrogatories.

(a) [When objection may be made] *Service of an answer or objection.* Within [ten] *twenty* days after service of interrogatories, the party upon whom they are served [may move upon notice to strike out any interrogatory, stating the grounds for objection.

(b) Suspension pending ruling. The answer to any interrogatory to which objection is made shall be deferred until the objections are ruled on by the court] *shall serve upon each of the parties a copy of the answer to each interrogatory, except one to which the party objects, in which even the reasons for the objection shall be stated with reasonable particularity*

(b) Form of answers and objections to interrogatories. Interrogatories shall be answered in writing under oath by the party upon whom served, if an individual, or, if the party served is a corporation, a partnership or a sole proprietorship, by an officer, director, member, agent or employee having the information. Each question shall be answered separately and fully, and each answer shall be preceded by the question to which it responds. Objections to interrogatories shall be signed by the attorney for the party making them.

(c) Amended answers. Except with respect to amendment or supplementation of responses pursuant to subdivision (i) of section 3101, answers to interrogatories may be amended or supplemented only by order of the court upon motion.

§16. Rule thirty-one hundred thirty-four of such law and rules is REPEALED.

§17. Section thirty-one hundred forty of such law and rules, as added by chapter six hundred forty of the laws of nineteen hundred sixty-seven, is amended to read as follows:

§3140. Disclosure of appraisals in proceedings for [condemnanation] *condemnation,* appropriation or review of tax assessments.

Notwithstanding the provisions of subdivisions (c) and (d) of section 3101, the [appellate division in each judicial department] *chief administrator of the courts* shall adopt rules governing the exchange of appraisal reports intended for use at the trial in proceedings for condemnation, appropriation or review of tax assessments.

§18. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

Note:

Rule 3124, relating to motion to compel disclosure, would be REPEALED and replaced by new section 3124. Rule 3134, relating to answers to interrogatories, would be REPEALED and the matter inserted in section 3133.

4. Use of Depositions (CPLR 3117(a) (2)) (new measure)

The Committee recommends the clarification of CPLR 3117(a) (2) with respect to the use of depositions at trial.

CPLR 3117(a) (2), in prescribing which depositions may be used as evidence in chief by an adverse party, includes the depositions of various officials and agents of a party, but it singles out the party's "employee" for distinct treatment. Before the employee's deposition may be used (even by the adverse party), CPLR 3117(a) (2) requires a showing that the employee was "produced" by the employer-party, but it does not say expressly when this producing had to take place.

The context suggests that the employee had to be produced by the employer at the trial, and that is in fact the construction given to the rule by *Rodriguez* v. *Board of Education of the City of New York,* 104 A.D.2d 978 (2d Dep't 1984). What was almost certainly intended, however, is that it be shown that the employer produced the employee not at the trial, but at the deposition. It is at that point that the employee's loyalties would be relevant, giving the employee, if he is such at deposition time, the status of a "party" and enabling the adverse party to treat his deposition as such later on at the trial. That application of the rule makes more sense in trial practice, see Siegel, 1985 Commentary C3117:4 on McKinney's CPLR 3117, and the Advisory Committee has discerned that the application recommended here has been the most common one, and clearly the one preferred by members of the trial bar on both sides of litigation.

The amendment therefore alters the construction given the rule by *Rodriguez,* and adopts the common and preferred practice.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to use of depositions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 2 of subdivision (a) of rule thirty-one hundred seventeen of the civil practice law and rules, as such rule was so designated by chapter three hundred fifteen of the laws of nineteen hundred sixty-two, is amended to read as follows:

2. the deposition of a party or of any one who at the time of taking the deposition was an officer, director, member, or managing or authorized agent of a party, or the deposition of an employee of a party produced *at the taking of the deposition* by that party, may be used for any purpose by any adversely interested party; and

§2. This act shall take effect immediately.

5. Stay of Enforcement on Appeal (CPLR 5519(a) (e)) (new measure)

The Court of Appeals and the Committee recommend that the provisions governing the automatic stay of enforcement pending appeal be improved by necessary additions, appropriate detail and fuller integration.

The proposal would amend CPLR 5519 (a) (Stay without court order) and CPLR 5519(e) (Continuation of stay), to complete, integrate and otherwise improve the provisions on stay of enforcement pending appeal, without court order, through successive tiers of appellate courts. Although intended to mesh with each other in spelling out a continuing process marked by symmetry, precision and clear and necessary detail, the present provisions fall short of the mark, calling for correction. This bill would start by striking the second and third sentences of CPLR 5519(e), clearing the way for an improved text as described hereafter.

First, the proper balance would be effected as between CPLR 5519(a) and CPLR 5519(e), by naming in each the full array of procedures by which the stay of enforcement on appeal is initiated and then continued. CPLR 5519(a), which provides for initiation of the stay by service of a notice of appeal or an affidavit of intention to move for permission to appeal, would be amended to add the motion for permission to appeal. No other amendment of CPLR 5519(a) is required. CPLR 5519(e), which fails to designate the affidavit of intention to move as a device for continuing the stay, would be completed by striking the second sentence and adding a new one naming all three devices, the notice of appeal, the motion for permission to appeal and the affidavit of intention to move for permission to appeal. Left intact is the first sentence of CPLR 5519(e) which provides that the original stay continues for five days after service upon the applicant of the order of affirmance or modification with notice of entry in the court to which appeal was taken.

Second, the existing provisions of the second and third sentences of CPLR 5519(e) would be clarified, integrated, focused and completed in the proposed new second sentence thereof, which would replace the other two, to provide that: (a) the automatic stay, where appeal is further pursued to a higher appellate tribunal, continues until five days after service of the order determining the appeal, or denying the motion for permission to appeal, with notice of entry; and where the motion is granted, the stay shall continue until five days after service of the order determining the appeal with notice of entry; (b) the court may provide otherwise than as prescribed with respect to the duration of the continued stay in all the above instances, a proposal which would, in the interest of consistency, extend a practical measure of flexibility beyond its present unwarranted restriction to the instance of the motion for permission to appeal. Finally, a related new third sentence would provide that where the appeal, whether as of right or by leave, is one determined by the Court of Appeals, such stay shall continue until five days after the appeal is "determined," thereby giving notice to unique Court of Appeals practice where a remittitur rather than an order is issued.

Third, to lay to rest a recurring argument on appeal that an appellant loses any right to a stay initiated under CPLR 5519(a) when he or she subsequently fails to take the required action under CPLR 5519(e) to continue such stay, a fourth sentence would be added to CPLR 5519(e) expressly to clarify that the automatic stay originally obtained under CPLR 5519(a), on first level appeal, may still be resurrected, on further appeal, by taking timely and appropriate action under CPLR 5119(a).

Fourth, since neither CPLR 5519(a) nor CPLR 5519(e) establish the time at which the stay expires when an affidavit of intention to move for permission to appeal is served, but no motion for permission to appeal is made, a fifth sentence would be added to subdivision (e), and therein made applicable also to subdivision (a), that where such affidavit is served, but no such motion made, the stay will expire at the close of the thirtieth day after the order sought to be appealed from with notice of entry is served. One consequence of such added language would be that where appeal by permision to a higher level appellate tribunal is involved, under CPLR 5519(e), the appellant would be able to use, as he or she now can under CPLR 5519(a) on first-level appeal, the affidavit method, pursuant to which five days would be provided for service of the affidavit and thirty days for preparation, filing and service of motion papers, as opposed to five days for motion papers under the existing provisions. The proposal would accord with CPLR 5513(b) (time to move for permission to appeal), would frequently better serve the interests of justice and would equalize first and second-level appeals in this respect.

The foregoing proposals would better integrate CPLR 5519(a) and CPLR 5519(e), as well as adding the clarity, economy, cohesion, scope and detail required for full effectiveness.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to stay on appeal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of subdivision (a) of section fifty-five hundred nineteen of the civil practice law and rules is amended to read as follows:

(a) Stay without court order. Service upon the adverse party of a notice of appeal, *a motion for permission to appeal,* or an affidavit of intention to move for permission to appeal stays all proceedings to enforce the judgment or order appealed from pending the appeal or determination on the motion for permission to appeal where:

§2. Subdivision (e) of section fifty-five hundred nineteen of such law and rules, as amended by chapter two hundred thirty-nine of the laws of nineteen hundred seventy-nine, is amended to read as follows:

(e) Continuation of stay. If the judgment or order appealed from is affirmed or modified, the stay shall continue for five days after service upon the appellant of the order of affirmance or modification with notice of its entry in the court to which the appeal was taken. [If an appeal is taken, or a motion is made for permission to appeal, from such an order before the expiration of five days, the stay shall continue five days after service of notice of the entry of the order determining such appeal or motion. When a motion for permission to appeal is involved, the stay, or any other stay granted pending determination of the motion for permission to appeal, shall:

(i) if the motion is granted, continue until five days after the appeal is determined; or

(ii) if the motion is denied, continue until five days after the movant is served with the order of denial with notice of entry.] *If a notice of appeal, or a motion for permission to appeal, or an affidavit of intention to move for permission to appeal from such order is served upon the adverse party before the expiration of the five days, the stay shall, unless the order determining the appeal or motion otherwise provides, continue until five days after service of the order determining the appeal or denying the motion with notice of entry; where the motion is granted, the stay shall continue until five days after the service of the order determining the appeal with notice of entry unless that order otherwise provides. Where the appeal, whether as of right or by leave, is one determined by the court of appeals, the stay shall continue until five days after the appeal is determined. The failure of a party possessing an automatic stay under subdivision (a) of this section to obtain a continuation of such stay pursuant to this subdivision shall not preclude that party from thereafter obtaining a new stay by again complying with the applicable provisions of subdivision (a). If after serving an affidavit of intention to move for permission to appeal, under this subdivision or subdivision (a), the party who seeks permission does not serve and file such motion within thirty days after service upon him of the order sought to be appealed from with notice of entry, the stay shall expire at the close of such thirtieth day.*

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

6. Appeal to the Court of Appeals of a Final Arbitration Award
(CPLR 5601(d); 5602(a) (1) (new measure)

The Court of Appeals and the Committee recommend that CPLR 5601(d) and 5602(a) (1), be amended to remedy inequitable foreclosure of appeal to the Court of Appeals in certain instances involving an arbitration award.

This measure would amend CPLR 5601(d) and CPLR 5602 (a) (1) which govern, respectively, appeal as of right and appeal on consent to the Court of Appeals from a final judgment of a specified court of original instance or a final determination of an administrative agency, thereby raising for review the prior nonfinal order of the Appellate Division necessarily affecting such judgment or determination. The bill would interpolate in each of the cited provisions the term "final arbitration award".

Because the arbitration scheme is not contemplated by the cited provisions, an appellant may be foreclosed from such review in the Court of Appeals in certain circumstances. Where an Appellate Division order remits the matter to the same or different arbitrator, absent a stipulation for judgment absolute under CPLR 5601 (c), such order is not appealable to the Court of Appeals because it does not finally determine the proceeding. *Matter of Chusuk, Ltd. [Lane Bryant Inc.]*, 63 N.Y. 2d 603 (1984). Such review under CPLR 5601(d) or CPLR 5602(a) (1) will not lie on appeal from the arbitration award because such an award is not specified in the cited provisions. *Matter of Ford* v. *CSEA*, 62 N.Y. 2d 799 (1984). Nor does such review lie on appeal from an order in a second Article 75 proceeding brought to review the new arbitrator's award because the prior nonfinal order of the Appellate Division arose in a separate proceeding. *Matter of Local 345 of the Retail State Employees Union [Heinrick Motors, Inc.]* 61 N.Y. 2d 900 (1984).

The insertion of "final arbitration award" in CPLR 5601(d) would allow direct appeal as of right to the Court of Appeals of such arbitration award, thereby raising the prior nonfinal order of the Appellate Division which necessarily affected that award. Such appeal could be taken as of right only where the prior nonfinal order satisfies the requirements of CPLR 5601(a) or (b) except that of finality. Where this is not the case, such appeal must be by permission and therefore CPLR 5602(a) (1) likewise would be amended by this bill to include "final arbitration award."

The proposed amendment would close the present statutory gap by allowing a direct appeal to the Court of Appeals from the arbitration award, with the prior nonfinal order of the Appellate Division affecting the award being brought up for review. This is needed in view of increasing resort by litigators to the arbitral process, which would result in an accelerating recurrence of inequitable foreclosure of appellate review in the specified instances unless the proposal is enacted.

Proposal

AN ACT

To amend the civil practice law and rules, in relation to appeals to the court of appeals of a final arbitration award bringing up for review the prior nonfinal order of the appellate division affecting such award

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (d) of section fifty-six hundred one of the civil practice law and rules is amended to read as follows:

(d) Based upon [non-final] *nonfinal* determination of appellate division. An appeal may be taken to the court of appeals as of right from a final judgment entered in a court of original instance [or], from a final determination of an administrative agency *or from a final arbitration award*, or from an order of the appellate division which finally determines an appeal from such a judgment or determination, where the appellate division has made an order on a prior appeal in the action which necessarily affects the judgment [or], determination *or award* and which satisfies the requirements of subdivision (a) or of paragraph one of subdivision (b) except that of finality.

§2. Paragraph 1 of subdivision (a) of section fifty-six hundred two of such law and rules, as amended by chapter three hundred forty-two of the laws of nineteen hundred sixty-seven, is amended to read as follows:

1. in an action originating in the supreme court, a county court, a surrogate's court, the family court, the court of claims [or], an administrative agency *or an arbitration*,

(i) from an order of the appellate division which finally determines the action and which is not appealable as of right, or

(ii) from a final judgment of such court [or], final determination of such agency *or final arbitration award* where the appellate division has made an order on a prior appeal in the action which necessarily affects the final judgment [or], determination *or award* and the final judgment [or], determination *or award* is not appealable as of right pursuant to subdivision (d) of section 5601; and

§3. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law and would apply to appeals perfected on or after the effective date of this act.

IV. Pending and Future Matters

The Committee is in the process of completing several pending projects, as well as initiating several studies affecting civil practice, with a view toward recommending legislation. In connection therewith, the work of the Subcommittees appointed by the Chairperson continues, with the following results:

1. The Subcommittee on the Individual Assignment System proposed, in the course of several intensive meetings, implementing CPLR legislation to accommodate and facilitate the establishment of the Individual Assignment System in 1986. The Subcommittee's proposals fell into general categories including substantive changes, conforming amendments, definitional additions and an enabling statute for the implementing rule-making power of the Chief Administrator. The Subcommittee assisted in the formulation of the Chief Administrator's 1986 legislative program on the Individual Assignment System.

2. The Subcommittee on Appellate Jurisdiction reviewed bills introduced in the 1985 Legislature on appellate practice, including Senate 6511-B, enacted as Chapter 300 of the Laws of 1985. The new law subjects the vast majority of civil appeals to the Court of Appeals to a certiorari review on motion for permission to appeal.

3. The Subcommittee on Legislation reviewed civil procedure legislation before the 1985 Legislature, particularly those bills which were of substantial importance or were moving toward enactment, and will continue to review similar types of legislation in 1986.

4. The Subcommittee on Contribution and Apportionment of Damages is working closely with the Law Revision Commission to develop legislation to amend generally section 15-108 of the General Obligations Law (release or covenant not to sue), with the hope that a remedial bill will be enacted during 1986, which will encourage more settlements in multi-defendant tort actions. In anticipation of new legislation on this topic this year the Advisory Committee withdrew its recommendation of last year for submission of interim legislation on this subject.

5. The Subcommittee on Statutes of Limitations has revised its recommended 1985 legislation proposing a more equitable provision governing the running of time for commencement of actions based on latent injuries caused by contact or exposure to toxic substances or hazardous wastes. The details are discussed in Part III of this Report.

6. The Subcommittee on Services of Process has prepared a proposal, together with accompanying forms, on service of process by mail, which is discussed in Part III of this Report. The Subcommittee was prompted by the precedent of Rule 4(c)(2)(C)(ii), the analogous and recently adopted Federal Rule, and also by the results of the meeting of April 16, 1985, sponsored jointly by the Administrative Judge of the Civil Court of the City of New York and the Subcommittee, at which judges, attorneys for landlords and tenants and members of the CPLR Advisory Committee and the Subcommittee discussed favorably the concept of service by mail in Landlord and Tenant proceedings.

In addition, the Subcommittee continues to study proposals to ameliorate the harsh effects of *Feinstein* v. *Bergner*, 48 N.Y. 2d 234 (1979) and *Ericson* v. *Macy*, 236 N.Y. 412 (1923), where plaintiffs' actions were dismissed on the merits because of technical defects in the method of service of process.

7. The Subcommittee on Matrimonial Procedures has continued to recommend methods for expediting matrimonial and other proceedings involving the status of children. The Subcommittee also reviewed pending 1985 legislation, including Senate 5127, Assembly 7315, An Act to amend the Domestic Relations Law in relation to child custody decision making process, and Senate 3524, Assembly 4697, An Act to amend the CPLR and FCA, in relation to in camera interviews of infants. The Subcommittee and the Committee both opposed the first designated bill, which was not enacted into law. The Subcommittee and Committee both favored the second designated bill, which was enacted as Chapter 785 of the Laws of 1985. The Subcommittee will continue to review similar types of legislation in 1986.

8. The Subcommittee on Courts of Limited Jurisdiction has under consideration a proposal to amend the cost amounts provisions of the New York City Court Act and Uniform Court Acts with the exception of the Uniform Justice Court Act. The Subcommittee continues also a statewide canvass of small claims courts outside New York City in order to determine local needs, sometimes at variance with those prevailing in New York City, preparatory to proposing recommendation for a statewide resolution of problems encountered in the Small Claims Courts.

9. The Subcommittee on Time Periods in Motion Practice has reported its recommendations for easing the obstacles to timely service that are encountered when service is by mail. These recommendations, which include expansion of time limits and a new method of measuring those limits, will be considered as a subject for possible future legislation in light of experience under Chapter 177 of the Laws of 1984, which extended the time limits set forth in the notice and demand option of CPLR 2214(b) (Time for service of notice and affidavit on motion).

10. The Subcommittee on the Constitutionality of Enforcement Provisions, with possible legislation in mind, continues to monitor the operation and effect of Chapter

882 of the Laws of 1982, which, in the wake of *Deary* v. *Guardian Loan Co., Inc.* 534 F. Supp. 1178 (S.D.N.Y.), amended CPLR 5222, 5232 and 5234 to provide for prior notice of restraining notices and executions or garnishments.

Additional matters continue to engage the Committee's attention, such as revision of the appendix of CPLR forms, and devising means for avoiding forum abuse occasioned by the commencement of an action in the Supreme Court of plaintiff's county rather than in an appropriate Small Claims Court.

The Committee continues to solicit the comments and suggestions of bench, bar, academic community and public, and invites the sending of all observations, suggestions and inquiries to:

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February, 1986

1986 Report

of the

Advisory Committee on Criminal Law and Procedure

to the

Chief Administrator of the Courts

of the

State of New York

February, 1986

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I. Introduction

In this 1986 Report of the Advisory Commitee on Criminal Law and Procedure to the Chief Administrator of the Courts, the Committee Recommends a total of 22 bills for enactment by the 1986 Legislature. Of these, 15 bills previously have been endorsed, while 7 bills are new or modified measures.

The new bills include proposals: requiring pretrial disclosure of prior uncharged criminal, vicious or immoral acts that the prosecution intends to use for impeachment purposes at trial; permitting a misdemeanor complaint to be converted to an information on the basis of unsworn testimony of a child witness; clarifying that certain felonies charged in a felony complaint may be referred to dispute resolution; allowing examinations on commissions to be videotaped; and clarifying that orders imposing mandatory surcharges need not be docketed with the county clerk.

Part II of this Report summarizes each of the measures previously submitted and explains its purpose. Part III summarizes each of the measures being submitted for the first time and the measures submitted previously but modified upon submission this year. In both parts II and III, individual summaries are followed by drafts of appropriate legislation.

In addition to recommending its annual legislative program, the Committee reviews and comments on pending measures, other than its own, to revise criminal law and procedure.

II. Previously Endorsed Measures

1. Establishment of a Procedure to Obtain Warrant of Arrest
(CPL 1.20; Article 120)

The Committee recommends that section 1.20 and Article 120 of the Criminal Procedure Law be amended to establish a procedure for obtaining a warrant of arrest prior to the formal commencement of a criminal action.

The United States Supreme Court has held that, absent exigent circumstances, an arrest warrant must be obtained before police may enter a suspect's home to make a "routine" felony arrest. *Payton* v. *New York*, 445 U.S. 573 (1980). Under existing New York law, an arrest warrant may not be issued until after an accusatory instrument commencing a criminal action is filed. CPL §120.10. This limitation causes difficulty when authority to arrest is needed and a court is unavailable for the filing of the accusatory instrument, or practical problems delay the preparation of the instrument itself. There also are circumstances under which probable cause to arrest an individual exists but further investigation is warranted before the prosecution can determine whether to commence a criminal action. Therefore, it is necessary to develop a mechanism whereby law enforcement officers possessing the statutory requirements to arrest without a warrant in a public place may obtain judicial authorization to arrest a person in his home before formal criminal proceedings are begun.

Our proposal would establish that mechanism by amending the existing arrest warrant provisions to permit an *ex parte* application to be made to the court for a warrant when a person may be arrested for a crime pursuant to section 140.10 of the Criminal Procedure Law and all other statutory requirements are met. The application provisions are patterned after those governing search warrants (*see* CPL §690.35), and the procedure to be followed after arrest remains as stated in section 140.20, with the additional requirement of a return of the warrant and a report to the court indicating the time and place of the arrest and subsequent steps taken.

The new procedure established by this measure will safeguard the rights of individuals suspected of criminal activity while permitting law enforcement officers to complete their investigations before commencing formal proceedings. It must be noted, however, that this measure also may have an impact upon the scope of other investigatory procedures that may be conducted before an action is commenced. *See People* v. *Samuels, 49 N.Y.2d 218 (1980).*

Proposal

AN ACT

To amend the criminal procedure law, in relation to warrant of arrest

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions twenty-eight and twenty-nine of section 1.20 of the criminal procedure law are amended to read as follows:

28. ["Warrant] *(a) "Warrant of arrest" means a process of a criminal court, more fully defined in subdivisions three and four of section 120.10, directing a police officer to arrest a person.*

(b) "Local criminal court warrant of arrest" means a [process] *warrant of arrest* of a local criminal court [, more fully defined in section 120.10,] directing a police officer, *pursuant to article 120,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.

[29.] *(c)* "Superior court warrant of arrest" means a [process] *warrant of arrest* of a superior court directing a police officer, *pursuant to subdivision three of section 210.10,* to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.

§2. Sections 120.10, 120.20, 120.30 and 120 40 of such law, section 120.10 as amended by chapter eight hundred forty-three of the laws of nineteen hundred eighty, section 120.40 as amended by chapter sixty-one of the laws of nineteen hundred seventy-three, are amended to read as follows:

§120.10. Warrant of arrest; definition, function, form and content. 1. A *warrant of arrest is a process of a criminal court directing a police officer to arrest a person.*

2. A local criminal court warrant of arrest is a [process] *warrant of arrest* issued by a local criminal court directing a police officer or a peace officer appointed by the state university to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a *local criminal court* warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced.

[2.] *3.* A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense [charged in the underlying accusatory instrument] *for which the person is to be arrested,* and (d) the name of the [defendant] *person* to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officers or officers or peace officers appointed by the state university to whom the warrant is addressed, and (f) a direction that such officer arrest [the defendant] *such person,* and *(g) where the warrant of arrest issued upon an accusatory instrument, a direction to* bring him before the issuing court.

[3.] *4.* A warrant of arrest may be addressed to *any police officer,* a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers, as well as to peace officers appointed by the state university. Multiple copies of such a warrant may be issued.

§120.20 Warrant of arrest; when issuable. 1. When a criminal action has been commenced in a local criminal court by the filing therewith of an accusatory instrument, other than a simplified [traffic] information, against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto, such court may, if such accusatory instrument is sufficient on its face, issue a *local criminal court* warrant *of arrest* for such defendant's arrest.

2. (a) Where a person may be arrested for a crime pursuant to section 140.10, a police officer or a district attorney may apply to a criminal court for a warrant of arrest. Upon such application, if the criminal court is satisfied that an arrest of such person is authorized by section 140.10, the court may issue the warrant.

(b) An ex parte application for such arrest must be submitted to a judge of a criminal court and it must be in writing, subscribed and sworn to by the applicant, or be made orally by the applicant, under oath, to the issuing judge and recorded verbatim. The application must contain:

(i) The name of the court, the name and title of the applicant, and the date of the application;

(ii) A statement that an arrest of a named person (or, if such be unknown, any name or description by which such person can be identified with reasonable certainty) for a specified crime is authorized by section 140.10;

(iii) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief. The applicant may also submit depositions of other persons containing allegations of fact, based upon personal knowledge or upon information and belief, supporting or tending to support those contained in the application. Allegations based upon information and belief shall include the source of such information and the grounds of such belief, and

(iv) A request that the court issue the warrant.

[2.] *3.* Even though such accusatory instrument *or application, as the case may be,* is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.

[3.] *4.* Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a *local criminal court* warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a *local criminal court* warrant of arrest.

§120.30. Warrant of arrest; by what courts issuable and in what courts returnable. 1. A *warrant of arrest may be issued by a criminal court with geographical jurisdiction of a crime specified in the application submitted to it pursuant to subdivision two of section 120.20.*

2. A local criminal court warrant of arrest may be issued only by the local criminal court with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only.

[2.] *3.* The particular local criminal court or courts with which any particular local criminal court accusatory instrument may be filed for the purpose of obtaining a *local criminal court* warrant of arrest are determined, generally, by the provisions of section 100.55. If, however, a particular assusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

§120.40 Warrant of arrest; attaching accusatory instrument to warrant of town court or village court. A town court or a village court which issues a *local criminal court* warrant of arrest may attach thereto a duplicate copy of the underlying accusatory instrument. If one or more duplicate copies of the warrant are issued, such court may attach as many copies of such accusatory instrument to copies of such warrant as it chooses. In any case where, pursuant to subdivision five of section 120.90, a defendant arrested upon such a warrant of arrest is brought before a local criminal court other than the town court or village court in which the warrant is returnable, a copy of the accusatory instrument constitutes a valid basis for arraignment as provided in subdivision one of section 170.15.

§3. Section 120.50 of such law is REPEALED.

§4. Section 120.90 of such law is amended by adding a new subdivision eight, to read as follows:

8. Notwithstanding the foregoing provisions of this section, the procedure following an arrest upon a warrant of arrest issued pursuant to subdivision two of section 120.20 shall be as provided in section 140.20. Further, within a reasonable time after the arrest of a person pursuant to such warrant, a police officer shall return the warrant to the issuing court and file with it a report of the time and place of the arrest and a report as to which of the procedures of section 140.20 were followed. The failure to file such report shall not be grounds for invalidating the arrest or the evidence derived from the arrest.

§5. This act shall take effect immediately.

REPEAL NOTE: - CPL 120.50 is repealed by this act since its provisions are included within subdivision three of CPL 120.10.

2. Immunity of Grand Jury Witnesses (CPL 190.40)

The Committee recommends that section 190.40 of the Criminal Procedure Law be amended to clarify existing law by providing that a witness before the grand jury does not receive immunity by reason of giving identification evidence of a nontestimonial character that the witness would have no constitutional privilege to withhold.

Section 190.40 now confers immunity upon any witness who has been compelled to "give evidence" before the grand jury. This standard of "giving evidence," however, is overbroad and could be construed to authorize immunity for a person appearing before the grand jury even if the evidence he or she gives is nontestimonial and not of a type that the witness is otherwise privileged to withhold. If a witness has no privilege with respect to this evidence, he or she has given up nothing by furnishing it to the grand jury and should not receive immunity as a result.

These considerations apply primarily to the giving of nontestimonial identification evidence, such as standing in a lineup, or furnishing a blood, voice, handwriting or fingerprint sample. A witness has no constitutional privilege to refuse to give this evidence. *Schmerber v. California*, 384 U.S. 757 (1966), and, therefore, should not receive immunity by reason of providing it.

Paragraph (c) of subdivision two of section 190.40, as added by the Legislature in 1975, recognizes this principle as it applies to corporate books and records, which a witness similarly would not be priviledged to withhold. Our proposal would delete paragraph (c) and replace it with a general provision that limits the grant of immunity to evidence that is protected from disclosure by the privilege against self-incrimination.

Proposal

AN ACT

To amend the criminal procedure law, in relation to the immunity received by grand jury witnesses to make clear that no immunity results from the giving of nontestimonial identification evidence which the witness would have no constitutional privilege to withhold.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 190.40 of the criminal procedure law, paragraph (c) of subdivision two thereof as added by chapter four hundred fifty-four of the laws of nineteen hundred seventy-five, is amended to read as follows:

§190.40 Grand jury; witnesses, compulsion of evidence and immunity. 1. Every witness in a grand jury proceeding must give any evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him.

2. [A witness who gives evidence in a grand jury proceeding] *In a grand jury proceeding, a witness who is required to give evidence under subdivision one which he would otherwise be entitled to withhold by virtue of the privilege against self-incrimination,* receives immunity unless:

(a) He has effectively waived such immunity pursuant to section 190.45; or

(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.

[(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.]

§2. This act shall take effect immediately.

3. Reduction of Peremptory Challenges (CPL 270.25)

The Committee recommends that section 270.25 of the Criminal Procedure Law be amended to reduce the allotted number of peremptory challenges from twenty to fifteen if the highest crime charged is a Class A felony, from fifteen to twelve if the highest crime charged is a Class B or C felony, and from ten to eight in all other cases.

After conducting an intensive study of the method of jury selection in New York, the Subcommittee on the Jury System of the Advisory Committee on Court Administration, chaired by the Hon. Caroline K. Simon, recommended the reduction of the number of peremptory challenges to the levels proposed herein as a means of improving the efficiency of our jury selection system. Subcommittee on the Jury System, *Interim Report*, 1976/77. The Subcommittee based its recommendation on the following specific findings:

1. There is a direct correlation between the number of peremptory challenges permitted and the excessively large size of panels sent to *voir dire*.
2. Peremptory challenges extend the time necessary to conduct *voir dire*, which has the effect of delaying trials and congesting court calendars.
3. The use of the challenge provokes hostility and resentment on the part of the jurors who are peremptorily excused.
4. The availability of a large number of peremptory challenges in criminal cases can result in systematic exclusion of particular groups from jury service in a given trial.
5. It is questionable whether the peremptory challenge accomplishes the purpose for which it was devised — producing an impartial jury: indeed, it may convincingly be argued that it is used by attorneys to pick a biased jury rather than an unbiased one.

The Subcommittee also noted that New York now allows more challenges in felony cases than most other states.

This Committee agrees with these findings and recommends this proposal as an effective method of reducing a significant amount of delay in the conduct of criminal jury trials, without diminishing the fairness of the trial.

Our proposal would permit the court, for good cause shown, to increase the number of allotted peremptory challenges to the level allowed under existing law. We feel this authority is necessary to preserve the rights of the parties in exceptional cases.

Proposal

AN ACT

To amend the criminal procedure law, in relation to the number of peremptory challenges

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 270.25 of the criminal procedure law is amended to read as follows:

2. Each party must be allowed the following number of peremptory challenges:

(a) [Twenty] *Fifteen* for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected[;] *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of twenty.*

(b) [Fifteen] *Twelve* for the regular jurors if the highest crime charged is a class B or class felony, and two for each alternate juror to be selected[;] *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of fifteen.*

(c) [Ten] *Eight* for the regular jurors in all other cases, and two for each alternate juror to be selected, *except for good cause shown the court may allow an additional number of peremptory challenges to regular jurors up to but not exceeding a total of ten.*

§2. This act shall take effect on the first day of January next succeeding the date on which it shall have become a law.

4. Justice Who May Grant Leave to Appeal (CPL 460.20)

The Committee recommends that section 460.20 of the Criminal Procedure Law be amended to provide that permission to appeal to the Court of Appeals from an order of an appellate division may not be sought from a justice who did not participate in the determination.

Section 460.20 now allows permission to be granted by any "justice of the appellate division of the department which entered the order sought to be appealed." Although this appears to encourage "judge-shopping," in practice, permission to appeal usually is sought only from an appellate justice who dissented in the case. Nevertheless, where the application is made to one who did not hear the arguments or participate in the decision, the unmistakable inference is that he or she has been selected because the appellant perceives a disposition to the appellant or to a particular side, defense or prosecution. Although this perception may be incorrect, the choice of a nonparticipating justice gives the appearance of impropriety and should not be permitted.

This proposal was cited with approval by the Court of Appeals in its unanimous decision in *People* v. *Dorta*, 46 N.Y. 2d 818 (1978). That case was before the Court of Appeals by permission of a justice of the appellate division who did not participate in the determination sought to be appealed. The Court of Appeals commented [46 N.Y. 2d at 821]:

> While such procedure is presently authorized (CPL 460.20 subd. [2], par. [a]), we believe the better practice to be that which was recently advocated by the Advisory Committee on Criminal Law and Procedure — to wit, that an appellant be prohibited from seeking leave to appeal to the Court of Appeals from a Justice of the Appellate Division who did not participate in the determination of the case.

Proposal

AN ACT

To amend the criminal procedure law, in relation to certificates granting leave to appeal to the court of appeals.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision two of section 460.20 of the criminal procedure law is amended to read as follows:

(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals or (ii) a justice of the appellate division [of the department which entered the order sought to be appealed] *who participated in the determination of the order sought to be appealed.*

§2. This act shall take effect immediately, and shall apply to all cases in which the order of the appellate division sought to be appealed was entered on or after such effective date.

5. Use of Conditional Examinations and Prior Testimony (CPL 660.20, 670.10)

Six years ago, the Committee recommended an amendment to Article 660 of the Criminal Procedure Law to authorize the videotaping of conditional examinations, to expand authorization for use of these examinations and to expand the use of prior testimony in general. Although authorization for videotaping was adopted in the 1979-80 session of the Legislature, the remainder of the Committee's proposal was not passed. The Committee now recommends that section 660.20 be amended to allow conditional examinations of witnesses where there is a showing of an attempt to induce the witness to be absent or otherwise unavailable to testify, and to permit the use of prior testimony given at any pretrial hearing when all statutory conditions are met.

The expansion of the use of conditional examinations to situations where there is an attempt to induce the witness to be absent is a reasonable response to those rare situations in which this authority is necessary. This especially is true now that the examination may be videotaped, thereby enabling the trier of fact to obtain a complete view of the witness as well as a transcript of the testimony.

Authority to use transcripts of prior testimony given at pretrial hearings likewise is reasonable and desirable, since the statute already permits the use of previous testimony given at preliminary hearings upon felony complaints. Other previous testimony is no less reliable and, therefore, also should be admissible when all other statutory requirements are met. The United States Supreme Court has determined that the use of previous testimony of an unavailable witness does not violate the confrontation clause of the Unitd States Constitution, when adequate safeguards similar to those applicable in New York exist to ensure the reliability of the testimony. *Ohio v. Roberts*, 448 U.S. 56 (1980).

Proposal

AN ACT

To amend the criminal procedure law, in relation to conditional examination of witnesses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 660.20 of the criminal procedure law is amended to read as follows:

§660.20 Examination of witnesses conditionally; grounds for order. An order directing examination of a witness conditionally must be based upon the [ground] *grounds* that there is reasonable cause to believe that such witness[: 1. Possesses] *possesses* information material to the criminal action or proceeding in issue[;], and *that:*

[2. Will] *1. The witness will* not be amenable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is [:

(a) About] *about* to leave the state and not return for a substantial period of time [;] or *he is*

[(b) Physically] *physically* ill or incapacitated; *or*

2. there has been an attempt to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such action or proceeding.

§2. Subdivision one of section 670.10 of such law, as amended by chapter two hundred ninety-one of the laws of nineteen hundred eighty, is amended to read as follows:

1. Under circumstances prescribed in this article, testimony given by a witness at (1) a *hearing or* trial of an accusatory instrument, or (b) [a hearing upon a felony complaint conducted pursuant to section 180.60, or (c)] an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. Upon being received into evidence, such testimony may be read and any videotape or photographic recording thereof played. Where any recording is received into evidence, the stenographic transcript of that examination shall also be received.

§3. This act shall take effect immediately.

6. Affirmative Defense of Temporary Possession of a Weapon
(Penal Law §265.06)

The Committee recommends that the Penal Law be amended by adding thereto a new section 265.06 to establish the affirmative defense of temporary possession of a weapon.

Under present New York law, there are a variety of defensive assertions that may be made at a trial for criminal possession of a weapon. In particular, they include failure of the prosecution to prove the required culpable mental state and the statutory exemption provided by section 265.20 of the Penal Law. They also include a caselaw-established "defense" of temporary possession of a weapon. This defense has been termed "innocent possession" *(People* v. *Williams,* 50 N.Y.2d 1043), "temporary and incidental possession" *(People* v. *Quintana,* 260 A.D. 12) and "temporary lawful possession" *(People* v. *Davis,* 61 A.D.2d 760).

This caselaw "defense" is overly broad and ill-defined, as a result of which there have been a number of unfounded assertions of it. *See, e.g., People* v. *Williams.* Moreover, the cases are silent as to whether the "defense" is an ordinary defense that must be disproved by the People beyond a reasonable doubt. *But see People* v. *Williams,* 50 N.Y.2d at 1046 (Fuchsberg, J. dissenting). Under these circumstances, trial courts are without guidance in properly charging juries.

The Committee recommends that the defense of temporary possession of a weapon be codified as an affirmative defense, which defendant must establish by a preponderance of the evidence (Penal Law §25.00(2)). Like other affirmative defenses recognized in the Penal Law, the defense of temporary possession of a weapon represents a means of vindication collateral to the prosecution's case, and generally is based upon information likely to be known only by defendant. Requiring defendant to bear the burden of establishing this defense does not violate due process. *Commonwealth* v. *Abken,* 391 A.2d 672 (Pa. Super. Ct.), *aff'd sub nom. Abken* v. *Pennsylvania,* 440 U.S. 952 (1979).

Under our proposal, to establish the affirmative defense of temporary possession of a weapon, defendant must show: (1) that he or she found the weapon or confiscated it from someone possessing it illegally or from someone whom defendant reasonably believed had used or might use it illegally, (2) that defendant intended to turn the weapon over to the authorities, or to render it permanently inoperable or inaccessible to anyone and was pursuing that intent "with immediacy and through a reasonable course of conduct," and (3) that defendant did not use the weapon illegally.

Proposal

AN ACT

To amend the penal law, in relation to an affirmative defense of temporary possession of a weapon

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is amended by adding a new section 265.06, to read as follows:

§265.06. Criminal possession of a weapon; affirmative defense. In any prosecution for criminal possession of a weapon, it is an affirmative defense that:

(1) the defendant found the weapon or confiscated it from a person who possessed it illegally or confiscated it from a person who the defendant reasonably believed had used or might use it in an illegal manner; and

(2) the defendant intended to turn the weapon over to a peace officer or police officer, or to render it permanently inoperable or inaccessible to anyone, and was pursuing such an intent with immediacy and through a reasonable course of conduct; and

(3) the defendant did not use the weapon in an illegal manner.

§2. This act shall take effect on the first day of September next succeeding the date on which it shall have become law.

7. Appeals to the Court of Appeals (CPL 450.90)

The Committee recommends that subdivision two of section 450.90 of the Criminal Procedure Law be amended to permit the Court of Appeals to review an unpreserved question of law decided by an appellate division as a matter of discretion in the interest of justice.

An intermediate appellate court may reverse a conviction on the basis of an unpreserved error of law occurring at trial. Because the error is unpreserved, however, reversal cannot be on the law alone *(see People* v. *Johnson,* 47 N.Y.2d 124, 126 (1979)), but upon an exercise of the court's authority to reverse as a matter of discretion in the interest of justice. CPL §§470.15(3) (c), 470.15(6) (a). The intermediate appellate court's order not being on the law alone, despite any recital to the contrary, no review of that court's action is authorized in the Court of Appeals. *People* v. *Cona,* 49 N.Y.2d 26, 34 (1979); *People* v. *Johnson, supra;* CPL §450.90(2).

By permitting the Court of Appeals to review an unpreserved question of law, upon which an appellate division has predicated reversal of a criminal conviction, this proposal would perform a salutary function. The present statutory formulation precludes such high court review simply because of the defendant's failure to register appropriate objection or protest at trial. CPL §470.05(2). Thus, the People, who had no reason or occasion to raise that objection or protest, unfairly are restrained from seeking further review of a pure question of law that the appellate division has reached only via exercise of its interest of justice jurisdiction.

Besides insuring that no party may derive a benefit from lack of diligence or inattention at trial, this proposal would cure a serious jurisdictional defect in the Court of Appeals's criminal jurisdiction. At the same time, it would not result in any significant increase in the Court's caseload, nor would it encroach on the appellate division's longstanding authority to review criminal cases in the interests of justice. It merely would insure that cases raising questions of law worthy enough to merit exercise of the latter's discretionary powers of review thereafter will be subject to review by our State's highest court.

Proposal

AN ACT

To amend the criminal procedure law, in relation to appeals to the court of appeals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 450.90 of the criminal procedure law is amended to read as follows:

2. An appeal to the court of appeals from an order of an intermediate appellate court reversing or modifying a judgment, sentence or order of a criminal court may be taken only if:

(a) The court of appeals determines that the intermediate appellate court's determination of reversal or modification was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal or modification; or

(b) The appeal is based upon a contention that corrective action, as that term is defined in section 470.10, taken or directed by the intermediate appellate court was illegal*; or*

(c) The court of appeals determines that the intermediate appellate court's determination of reversal or modification, irrespective of the form of its order, was made as a matter of discretion in the interests of justice based solely upon the intermediate appellate court's review of a question which would otherwise constitute a question of law, but for the lack of protest or preservation pursuant to section 470.05. In such instance, the court of appeals may review the unpreserved or unprotested question of law pursuant to subdivision two of section 470.35 and direct such corrective action as may be appropriate pursuant to section 470.40.

§2. This act shall take effect immediately.

8. Discovery of Nontestimonial Evidence (CPL 240.40)

The Committee recommends that section 240.40 of the Criminal Procedure Law be amended to permit a court to require a defendant against whom a felony or misdemeanor complaint is pending to provide nontestimonial evidence.

During its 1979 Session, the Legislature enacted a new article 240 of the Criminal Procedure Law, providing for expanded criminal discovery procedures. Section 240.40 authorizes a court in which an indictment, superior court information, prosecutor's information or information is pending to order a defendant to provide nontestimonial evidence. This proposal would expand this authority to permit an order to issue when a felony or misdemeanor complaint is pending. Since these accusatory instruments also must contain factual allegations establishing probable cause to support the charges, they should be included in the list of instruments that provide the basis for a court order requiring the production of nontestimonial evidence. *See* CPL §100.15.

Proposal

AN ACT

To amend the criminal procedure law, in relation to the discovery of non-testimonial evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 240.40 of the criminal procedure law, the opening paragraph of which as amended by chapter three hundred seventeen of the laws of nineteen hundred eighty-three, such subdivision as added by chapter four hundred twelve of the laws of nineteen hundred seventy-nine, is amended to read as follows:

2. Upon motion of the prosecutor, and subject to constitutional limitations, *(a)* the court in which an indictment, superior court information, prosecutor's information, information or simplified information charging a misdemeanor is pending[; (a)] must order discovery as to any property not disclosed upon a demand pursuant to section 240.30, if it finds that the defendant's refusal to disclose such material is not justified[;], and (b) *the court in which an indictment, superior court information, prosecutor's information, information, felony complaint or misdemeanor complaint is pending* may order the defendant to provide non-testimonial evidence*; provided, however, where a felony complaint is pending in a local criminal court, the superior court which would have trial jurisdiction of the offense or offenses charged were an indictment therefor to result may also order the defendant to provide non-testimonial evidence*. Such order may, among other things, require the defendant to:

(i) Appear in a line-up;

(ii) Speak for identification by witness or potential witness;

(iii) Be fingerprinted;

(iv) Pose for photographs not involving reenactment of an event;

(v) Permit the taking of samples of blood, hair or other materials from his body in a manner not involving an unreasonable intrusion thereof or a risk of serious physical injury thereto;

(vi) Provide specimens of his handwriting;

(vii) Submit to reasonable physical or medical inspection of his body.

This subdivision shall not be construed to limit, expand, or otherwise affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument consistent with such rights as the defendant may derive from the constitution of this state or of the United States.

§2. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

9. Waiver of Appeal After Denial of Motion to Suppress Evidence (CPL 220.50, 710.70)

The Committee recommends that sections 220.50 and 710.70 of the Criminal Procedure Law be amended to provide that a defendant who negotiates a plea following a denial of a motion to suppress evidence waives the right to appeal from such denial unless defendant and the prosecutor stipulate otherwise at the time the plea is taken.

Section 710.70(2) of the Criminal Procedure Law now provides that "an order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty." This provision enables a defendant, after a motion to suppress is denied, to plead guilty to the charges and save the time and expense of a trial when his or her main defense was based upon the suppression of evidence. Thus, defendant is not required to go through an entire trial simply to preserve a suppression issue for appeal.

There are, however, many cases in which, as part of a negotiated plea, the defendant pleads guilty to a lesser charge or pleads guilty to a charge in one indictment to cover several other indictments. In these cases, that defendant has made a bargain and received a benefit in exchange for a conviction for a particular crime. Nevertheless, on appeal, defendant may continue to argue that he or she should be relieved of the bargain freely made. This increases the heavy burden on our appellate courts, and, if the conviction is ultimately reversed, the passage of time may have severely impaired the prosecution's case.

This measure would provide that a negotiated plea constitutes a waive of defendant's right to appeal from an order denying a suppression motion, unless both defendant and the prosecutor stipulate that the former's right to appeal is to be preserved. It certainly is not unfair to require a defendant, as part of a plea bargain, to recognize that the bargain is final and that previous rulings are out of the case. The defendant still could appeal the excessiveness of the sentence or anything else not included in the plea agreement. Of course, in cases where there have been no plea bargains, defendants who have pled guilty will continue to enjoy the right to appeal from denial of a suppression motion.

The Court of Appeals has approved the prosecutorial practice of exacting a waiver of appeal from a denial of suppression as part of a negotiated plea. *People v. Williams*, 36 N.Y.2d 829 (1975). Moreover, the Appellate Division, Second Department, has suggested that the Legislature should preclude appeals from a denial of a suppression motion under such circumstances. *People v. Navarro*, 61 A.D.2d 534 (1978). That is the object of this measure.

Proposal

AN ACT

To amend the criminal procedure law, in relation to a waiver of appeal of a denial of a motion to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 220.50 of the criminal procedure law is amended by adding a new subdivision five to read as follows:

5. Where a defendant offers to enter a plea of guilty to part of an indictment, or to an entire indictment or part of an indictment constituting a complete disposition of one or more other indictments against the defendant then pending, after an order finally denying his motion to suppress evidence made pursuant to article seven hundred ten of this chapter, the court must inform him that entry of such plea will constitute a waiver of his right to appeal from such order, as authorized by subdivision two of section 710.70, unless both he and the prosecutor agree, either on the record or in a writing filed with the indictment, that he may appeal from such order.

§2. Subdivision two of section 710.70 of such law is amended to read as follows:

2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty*; provided, however, where judgment is entered upon a plea of guilty to part of an indictment, as provided in section 220.30, or upon a plea of guilty, whether to an indictment or to part of an indictment, which constitutes a complete disposition of one or more other indictments against the defendant then pending, such order may not be reviewed upon appeal unless, upon entry of the plea, both the defendant and the prosecutor agree, either on the record, or in a writing filed with the indictment, that the defendant may appeal from such order.*

§3. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

10. Separation of Jury During Deliberations (CPL 310.10)

The Committee recommends that section 310.10 of the Criminal Procedure Law be amended to authorize a court to permit a deliberating jury to separate temporarily, including overnight and on weekends and holidays. This would facilitate and encourage jury service, reduce the potentially coercive impetus to arrive at a prompt verdict and save the expense necessitated by prolonged sequestration in cases in which there is no likelihood of jury tampering or influence.

Section 310.10 now provides that a deliberating jury "must be continuously kept together under the supervision of a court officer or court officers" or other personnel. This requires that deliberating jurors be kept in hotel rooms or other accommodations, fed and guarded during deliberations. This rule is in marked contrast to the more flexible approach employed in the federal courts, where sequestration is within the court's discretion.

Our proposal would amend New York's rigid rule by allowing dispersal when the court so authorizes. Dispersal should be the rule rather than the exception. In most cases the jury is not sequestered during the trial itself, and the possibility that the jurors will defy the court's instructions and read about or discuss the case with outsiders, or that the jurors will be tampered with, should be no greater during deliberations. The possibility of exposure to news reports in fact may be less during deliberations, when the media no longer have any new evidence to report.

It is undisputed that this proposal would have a favorable impact on the State budget. An evaluation of costs of sequestering juries has indicated that its enactment could result in a saving of approximately $1,200 to $1,500 for each day a jury is not sequestered when it normally would have been, and the total potential savings in expenses for meals, lodging and transportation for jurors and overtime pay for court personnel could exceed $1,000,000 a year.

Proposal

AN ACT

To amend the criminal procedure law, in relation to authorizing the temporary separation of a deliberating jury

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 310.10 of the criminal procedure law, as amended by chapter two hundred fourteen of the laws of nineteen hundred seventy-four, is amended to read as follows:

§310.10 Jury deliberation; requirement of; where conducted.

1. Following the court's charge, the jury must retire to deliberate upon its verdict in a place outside the courtroom. It must be provided with suitable accommodations therefor and must, *except as otherwise provided in subdivision two,* be continuously kept together under the supervision of a court officer or court officers. In the event such court officer or court officers are not available, the jury shall be under the supervision of an appropriate public servant or public servants. Except when so authorized by the court or when performing administerial duties with respect to the jurors, such court officers or public servants, as the case may be, may not speak to or communicate with them or permit any other person to do so.

2. At any time after the jury has commenced its deliberations, the court may declare the deliberations to be in recess and may thereupon direct the jury to suspend its deliberations and to separate for a reasonable period of time to be specified by the court, including Saturdays, Sundays and holidays. Before each recess, the court must admonish the jury as provided in section 270.40 and direct it to resume its deliberations when all twelve jurors have reassembled in the designated place at the termination of the declared recess.

§2. This act shall take effect immediately.

11. Discharge of Alternate Jurors (CPL 270-30)

The Committee recommends that section 270.30 of the Criminal Procedure Law be amended to provide that alternate jurors may be discharged after a jury retires for deliberations, unless defendant consents in advance to replacement of any juror by an alternate juror should the need therefor arise.

As now written, section 270.30 gives defendant the right to refuse to consent to the discharge of alternate jurors, in which event the latter must be sequestered while the jurors deliberate a verdict. Incongruously, defendant may exercise this right even though he or she has no intention of consenting to substitution of the alternates for jurors who become incapacitated or otherwise unable to continue to serve during the deliberation process. *See* CPL §270.35.

This proposal would empower a court to require defendant, at the time the jury retires to deliberate, to agree or disagree to the substitution of alternate jurors should there be need therefor. If defendant does not agree, the court then may discharge the alternates — thereby saving time and inconvenience to the alternate jurors and sparing the public fisc of the considerable costs of their sequestration.

Proposal

AN ACT

To amend the criminal procedure law, in relation to the discharge of alternate jurors.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 270.30 of the criminal procedure law, as amended by chapter two hundred sixty-seven of the laws of nineteen hundred seventy-nine, is amended to read as follows:

§270.30. Trial jury; alternate jurors. Immediately after the last trial juror is sworn, the court may in its discretion direct the selection of one or more, but not more than four additional jurors to be known as "alternate jurors". Alternate jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges for cause and must take the same oath as the regular jurors. After the jury has retired to deliberate, the court must either (1) with the consent of the defendant and the people, discharge the alternate jurors or (2) direct the alternate jurors not to discuss the case and must further direct that they be kept separate and apart from the regular jurors. *Notwithstanding the failure of the defendant to consent to the discharge of alternate jurors as provided in (1), the court may discharge the alternate jurors unless defendant consents in advance to replacement of any juror by an alternate juror should any of the grounds specified therefore in section 270.35 arise.*

§2. This act shall take effect thirty days after it shall have become a law.

12. Involuntarily Made Statements (CPL 60.45, 710.20, 710.70)

The Committee recommends that sections 60.45, 710.20 and 710.70 of the Criminal Procedure Law be amended to clarify that a defendant in a criminal case may not have the question whether his confession was obtained in violation of his rights under *Miranda v. Arizona* submitted to the jury.

In *People v. Graham*, 55 N.Y.2d 144 (1982), the Court of Appeals announced that a trial court must read these statutes literally and must submit the question of a confession's voluntariness under *Miranda* to a jury. Apparently, this decision was not rendered without misgivings, however, as both the plurality and concurring opinions invited the attention of the Advisory Committee and the Legislature to the matter of a statutory revision. Then Associate Judge Wachtler, in particular, expressed his concern at the absence of any rational explanation for the requirement of a jury submission, pointing out that it is mandated neither by *Miranda* nor the New York State Constitution. *People* v. *Graham,* 55 N.Y.2d at 153 (Wachtler, J., concurring).

Graham pinpoints an anomaly in the current statutory scheme because neither the drafters of the CPL nor the Legislature ever intended that *Miranda* issues be litigated before a jury. Those issues involve questions of law, and, like search and seizure questions arising under the Fourth Amendment, are more suitable for judicial resolution. Rather, the statutory scheme was designed to be of more limited scope, bringing before a jury only true involuntariness claims *(viz.,* involving some form of duress). Accordingly, it is the purpose of this proposal to eliminate this anomaly. At the same time, however, it would preserve defendant's right to adduce evidence at a jury trial that his *Miranda* rights were violated as part of a showing that the violation was one among other causes that contributed to make his statement truly involuntary.

Proposal

AN ACT

To amend the criminal procedure law, in relation to involuntarily made statements.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 60.45 of the criminal procedure law is amended to read as follows:

§60.45 Rules of evidence; admissibility of statements of defendants. 1. Evidence of a written or oral confession, admission, or other statement made by a defendant with respect to his participation or lack of participation in the offense charged, may not be received in evidence against him in a criminal proceeding if such statement was involuntarily made *or otherwise unconstitutionally obtained.*

2. A confession, admission or other statement is "involuntarily made" by a defendant when it is obtained from him:

(a) By any person by the use or threatened use of physical force upon the defendant or another person, or by means of any other improper conduct or undue pressure which impaired the defendant's physical or mental condition to the extent of undermining his ability to make a choice whether or not to make a statement; or

(b) By a public servant engaged in law enforcement activity or by a person then acting under his direction or in cooperation with him[:

(i)] by means of any promise or statement of fact, which promise or statement creates a substantial risk that the defendant might falsely incriminate himself[; or

(ii) in violation of such rights as the defendant may derive from the constituting of this state or of the United States].

3. A confession, admission or other statement is "unconstitutionally obtained" from a defendant when it is obtained in violation of such rights as he may derive from the constitution of this state or of the United States.

§2. Subdivision three of section 710.20 of such law is amended to read as follows:

3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made *or otherwise unconstitutionally obtained,* within the meaning of section 60.45; or

§3. The last unnumbered paragraph of section 710.70 of such law is amended to read as follows:

Nothing contained in this article, however, precludes a defendant from attempting to establish at a trial that evidence introduced by the people of a pre-trial statement made by him should be disregarded by the jury or other trier of the facts on the ground that such statement was involuntarily made within the meaning of *subdivision two of* section 60.45. Even though the issue of the admissibility of such evidence was not submitted to the court, or was determined adversely to the defendant upon motion, the defendant may adduce trial evidence and otherwise contend that the statement was involuntarily made. *Evidence that the statement was unconstitutionally obtained within the meaning of subdivison three of section 60.45 may be introduced in support of a claim that a statement was involuntarily made, but may not serve as the sole basis of such a claim.* In the case of a jury trial, the court must submit [such] *the* issue *whether a defendant's statement was involuntarily made* to the jury under instructions to disregard such evidence upon a finding that the statement was involuntarily made.

§4. This act shall take effect thirty days after it shall have become a law; provided, however, the provisions of the criminal procedure law, as amended herein, shall be applied only to criminal actions commenced on or after such date.

13. Decision on Motion to Suppress Identification Testimony
(CPL 710.40)

The Committee recommends that subdivision three of section 710.40 of the Criminal Procedure Law be amended to allow a court to defer the hearing and determination of a motion to suppress identification testimony until after the trial has commenced.

Under present law, all motions to suppress evidence must be decided before trial. In the context of a *Wade* hearing, this means that crime victims or other persons who will give identification testimony must make multiple court appearances. Apart from the great personal inconvenience this may occasion, which itself may have the effect of discouraging such persons from coming forward to testify at the time of trial, it also may expose them to efforts at intimidation. *See People* v. *Vargas,* 118 Misc. 2d 477 (Sup. Ct. N.Y. Co. 1983).

This salutary proposal would permit a court, in its discretion and with the consent of the prosecutor, to minimize the number of court appearances an identification witness must make by postponing its hearing and determination of a *Wade* motion until after trial has commenced. In order to protect the defendant's rights, the hearing would be held outside the presence of the jury. The prosecutor's consent is necessary to offset the latter's loss of a right of appeal from an adverse decision on the *Wade* motion *(see* CPL §450.20(8)) once trial begins.

Proposal

AN ACT

To amend the criminal procedure law, in relation to certain motions to suppress evidence

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision three of section 710.40 of the criminal procedure law, as amended by chapter two hundred seventy-three of the laws of nineteen hundred seventy-seven, is amended to read as follows:

3. When the motion is made before trial, the trial may not be commenced until determination of the motion; *provided, however, that when a hearing is held on a motion to suppress evidence based upon the ground specified in subdivision six of section 710.20, and the court finds from the evidence offered at such hearing that (a) the challenged identification occurred at a confrontation arranged by the police and (b) there is no reason to believe that the identification was the product of improper suggestion; and either party wishes to call a witness or witnesses, other than a police officer, who will be testifying at the trial, the court may, with the consent of the prosecutor, defer the testimony of the nonpolice witness or witnesses, continue the hearing and reserve decision on the motion until after the trial has commenced, unless good cause be shown why the witness or witnesses should testify and the decision should be rendered before commencement of the trial. In the event that a continuance of the suppression hearing is granted hereunder in a case tried by a jury, the court must hear the witness or witnesses on the issue of suppression outside the presence of the jury and must render decision on the motion before the witness or witnesses testify before the jury.*

§2. This act shall take effect ninety days after it shall have become a law.

14. Amendment of Indictments
(CPL Article 205)

The Committee recommends that the Criminal Procedure Law be amended, by the addition of a new Article 205, to establish a procedure for amending an indictment, prior to retrial, to charge lesser included offenses of counts that have been disposed of under such circumstances as to preclude defendant's retrial thereon. Legislative action permitting such amendments was recommended to the Advisory Committe by the Court of Appeals.

In *People* v. *Mayo*, 48 N.Y. 2d 245 (1979), defendant was charged with robbery in the first degree. The trial court refused to submit that charge to the jury, submitting instead the lesser included offenses of robbery in the second and third degrees. The jury was unable to reach a verdict on these lesser charges and a mistrial was declared. Defendant then was retried on the original indictment. Although the first degree robbery count was not submitted to the jury at the second trial, the Court of Appeals held that it was improper to retry defendant on the original indictment. The Court reasoned that since the sole count of the indictment could not be retried because of the prohibition against double jeopardy, nothing remained to support further criminal proceedings under that accusatory instrument. 48 N.Y. 2d at 253. Impliedly, this holding also foreclosed amendment of the original indictment to charge the lesser included offenses on which retrial was not prohibited. Accordingly, the practical effect to the Court's holding is to require re-presentation of cases to grand juries. This consumes the time and resources of district attorneys, grand juries and witnesses alike, without any concomitant benefit to defendant. *See People* v. *Gonzales*, 96 A.D. 2d 847 (2d Dept. 1983) (*Titone*, J., dissenting).

In a footnote to its holding in *Mayo*, the Court noted its belief that "there would have been no constitutional or statutory bar to a retrial" had the People obtained a new indictment containing only the second and third degree robbery counts. 48 N.Y. 2d at 250 (*see* footnote 2). In accordance with this observation and at the request of the Court of Appeals, the Advisory Committee undertook to prepare remedial amendments to the Criminal Procedure Law.

This measure, which reflects those amendments, would establish a new Article 205 of the Criminal Procedure Law setting forth a procedure whereby an indictment may be amended prior to retrial to charge lesser included offenses of counts that have been disposed of at the first trial, whether or not such lesser included offenses were submitted to the jury at the initial trial. It would require the People to make a written application to amend the indictment, on notice to defendant, at least 20 days prior to the new trial. Further, the People would be required to file a copy of the indictment, as it is proposed to be amended, with their application, and to serve a copy of the amended indictment upon defendant. These provisions are intended to insure that the functions of an indictment — to give defendant adequate notice of the charge against him — are not compromised by the amendment procedure.

Proposal

An Act

To amend the criminal procedure law in relation to amendment of indictments.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article two hundred five to read as follows:

Article 205

Retrial of Lesser Included Offenses

§205.10. Procedure for amending indictment where retrial is ordered.

§205.10. Procedure for amending indictment where retrial is ordered. Notwithstanding any other provision of law, whenever (a) an offense charged in a count of an indictment is disposed of under such circumstances as to preclude defendant's retrial thereon and (b) a new trial is ordered, the trial court may, upon application of the people and with notice to the defendant and opportunity to be heard, order the amendment of the indictment to charge any lesser included offenses, as defined in section 1.20(37), of such offense, whether or not such lesser included offenses were submitted to the finder of fact upon trial of the original indictment, provided, however, that the indictment may not be amended to charge a lesser included offense that was disposed of under such circumstances as to preclude defendant's retrial thereon. Such application must include a copy of the indictment as it is proposed to be amended and must be made, in writing, at least twenty days prior to commencement of the new trial. Upon granting an application hereunder, the trial court shall order the people to file the amended indictment with the court and to cause defendant to be furnished with a copy thereof.

§2. This act shall take effect immediately.

15. Proof of Purchase of Child Seating System (Vehicle and Traffic Law §1229-c)

The Committee recommends that subdivision six of section 1229-c of the Vehicle and Traffic Law be amended to provide that a fine for violating the mandatory seat belt law provisions relating to restraint of children under age 4 (VTL §1229-c (1), (2)) may be waived only where the court is supplied with proof that a child seating system has been purchased or rented since the date of the violation.

The purpose of this measure is to correct a loophole in section 1229-c. Subdivisions one and two of section 1229-c require that children under the age of four be restrained in specially-designed car seats meeting Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213. Subdivision five of that section provides that a violation of any of the provisions of section 1129-c shall be punishable by a civil fine, not exceeding 50 dollars. Subdivision six, however, requires the court to waive any such fine where the violation of section 1229-c involves failure to comply with its requirements concerning seat restraints for children under four and the court is presented with proof that the violator has "purchased or rented a child seating system. . .on or before the appearance date [of his or her] violation."

Herein lies the loophole. It has been pointed out to the Advisory Committee that subdivision six prescribes no date *after which* a violator, seeking to benefit from the waiver provision, must have purchased the necessary seating system. Thus, the statute would seem to require that, where a violator is convicted for failing to use a seating system that he or she already owned at the time the violation occurred, the fine must be waived. The Legislature cannot have intended such an anomaly. Accordingly, this measure would amend subdivision six of section 1229-c to clarify that waiver of the fine may be ordered only where a child seating system is purchased *after* the date of the violation.

Proposal

An Act

To amend the vehicle and traffic law, in relation to proof of purchase of child seating system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1: Subdivision six of section twelve hundred twenty-nine-c of the vehicle and traffic law, as added by chapter three hundred sixty-five of the laws of nineteen hundred eighty-four, is amended to read as follows:

6. The court shall waive any fine for which a person who violates the provisions of this section would be liable with respect to passengers under the age of four if such person supplies the court with proof that, *between the date on which he is charged with having violated this section and the appearance date for such violation,* he [has] purchased or rented a child seating system which meets the requirements of subdivision one of this section [on or before the appearance date for such violation].

§2. This act shall take effect immediately.

III. New or Modified Measures

1. Establishment of a Procedure for Securing Evidence by Use of Electronic Video Surveillance (CPL Article 695)

The Committee recommends that the Criminal Procedure Law be amended by the addition of a new Article 695, to establish statutory guidelines for the use of video electronic surveillance as an extraordinary means of obtaining evidence of criminal activity. Legislative action establishing such guidelines was recommended by the New York Court of Appeals in *People* v. *Teicher*, 52 N.Y.2d 638 (1981).

The principal features of the proposed new article, modeled after Articles 690 (search warrants) and 700 (eavesdropping) of the Criminal Procedure Law, include:

Proposed section 695.05

This section defines critical terms employed in new Article 695. Of special note, "video surveillance" is defined to be "the intentional visual observation of a person by means of a television camera or other similar electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or videotape, and under circumstances whereby such observation, in the absence of a video surveillance warrant, infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States." Also, a "video surveillance warrant" is defined to be an order of a justice of the Appellate Division or of the Supreme Court, or-an order of a county court judge, "authorizing video surveillance."

Proposed section 695.10

This section sets forth general restrictions applicable to a video surveillance warrant. In particular, the warrant may be executed only by a police officer, peace officer or district attorney, or a person acting pursuant to such an official's direction, and it may not authorize surveillance of a specific person for any period longer than 30 days (or until the objective of the surveillance is achieved, if sooner).

Proposed section 695.15

This section describes the circumstances under which a video surveillance warrant may issue. *First,* it must be upon a proper application. *Second,* there must be probable cause to believe that the person who will be the object of video surveillance is committing or is about to commit an offense. *Third,* there must be probable cause to believe that activity related to the commission of such offense will be observed through video surveillance. *Fourth,* normal nonelectronic investigative procedures must first be exhausted unsuccessfully or demonstrated to be unavailing if attempted. *Fifth,* there must be probably cause to believe that the place where video surveillance is to be conducted is being used in connection with the offense or somehow is linked with the person to be subject to such surveillance.

Proposed section 695.20

This section prescribes the contents of an application for a video surveillance warrant. Such an application must be made *ex parte* and in writing.

Proposed section 695.25

This section provides that a judge or justice may grant an application and issue the video surveillance warrant, deny the application, or require the applicant to furnish additional testimony or documentary evidence in support of the application.

Proposed section 695.30

This section describes the form and content of a video surveillance warrant. Required are: specific information concerning the issuance of the warrant (applicant, court, etc.); the identity, if known, of the person(s) to be subject to video surveillance; descriptions of the place(s) to be subject to such surveillance, the activity sought to be observed and the offense to which it relates; the identity of the person(s) who will conduct the surveillance; specification as to time period during which surveillance is authorized; a minimization provision; and, if necessary, express authorization to make secret entry upon premises to install any equipment required to conduct surveillance.

Proposed section 695.35

This section expressly provides that a video surveillance warrant must be executed according to its terms, and any surveillance thereunder must cease upon termination of the authorization in the warrant.

Proposed section 695.40

This section, substantially similar to section 700.40, authorizes issuance of an order of extension of a video surveillance warrant. The extension may not exceed 30 days, and is available only upon a proper application (which must satisfy the same requirements as the initial application for a warrant), supplemented by a summary of the activities observed through surveillance to date and an explanation for the failure thus far to achieve the warrant's objective.

Proposed section 695.45

This section, substantially similar to section 700.50, provides that the judge or justice who issues a video surveillance warrant may require periodic progress reports. It also requires that, upon termination of authorized surveillance, all tapes or records shall be made available to the judge or justice who issued the warrant therefor and sealed under his directions. Within 90 days of the termination of a video surveillance warrant (or an extension order), written notice of particulars relating to its issuance and its execution must be served upon persons named in the warrant. Thereafter, any person so served may, in the court's discretion, inspect tapes or records or the video surveillance warrant (and any extension orders) or applications therefor.

Proposed section 695.50

This section, substantially similar to section 700.55, provides for the custody of applications for video surveillance warrants and the warrants, if any, issued by a judge or justice.

Proposed section 695.55

This section, substantially similar to section 700.65, regulates disclosure and use of information derived from authorized video surveillance.

Proposed section 695.60

This section, substantially similar to section 700.70, provides for the exclusion at trial of the contents of any recording made pursuant to a video surveillance warrant, and any evidence derived therefrom, unless the prosecutor serves defendant with a copy of the video surveillance warrant and the application therefor within 15 days following arraignment. The court may, however, upon a showing of good cause and a finding of no prejudice to defendant, extend the 15 day period.

Proposed section 695.65

This section clarifies that a video surveillance warrant obtained in accordance with the provisions of Article 695 shall be deemed to include authorization to conduct eavesdropping simultaneously with video surveillance.

* * *

We are not unmindful of the distinctly Orwellian overtones of this proposal. In the surreptitious viewing and recording of a private person's activities, there looms the spectre of "Big Brother" and all of the abuses so vividly portrayed in that classic work of fiction, *1984*. We point out, however, that this proposal would not operate to permit video surveillance; rather, it is intended to circumscribe its use as an investigative technique by police and prosecutors in a fashion designed to safeguard the rights and privacy of the public.

In the *Teicher* case, a unanimous Court of Appeals declared that "a warrant may issue to authorize the video taping of evidence to be admitted at a subsequent [criminal] trial, provided certain procedures are followed and certain safeguards are observed." 52 N.Y.2d at 642. The defendant there, a dentist, was convicted of sexually abusing two of his female patients while they were sedated. On appeal, defendant contended that the videotape of one of his patient's visits, recorded by a camera secreted in a treatment room pursuant to a warrant, should not have been admitted into evidence.

Defendant's convictions were affirmed by the Court of Appeals, over defendant's contention that Title III of the Federal Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. §§2510-2520) precludes electronic surveillance in cases of sexual abuse arising out of the victim's incapacity to consent because the offense is not among those crimes enumerated in subdivision 2 of 18 U.S.C. §2516. *See People* v. *Shapiro*, 50 N.Y.2d 747 (1980). The Federal wiretapping statute, the Court held, does not preempt State law in the field of video electronic surveillance, for it does not apply to — nor does it prohibit — the type of surveillance challenged.

More importantly, the *Teicher* Court rejected defendant's argument that video surveillance is so intrusive that it must be prohibited on the ground that it is unreasonable *per se* under the Fourth Amendment. The Court wrote: "the Fourth Amendment does not mandate an absolute ban on video surveillance any more than it mandates a total prescription on electronic eavesdropping." 52 N.Y.2d at 653. Moreover, the warrant used in *Teicher*, although improvised because of the absence of statutory guidelines relating to application therefor and to proper form and content, nonetheless met the constitutional requirements outlined for aural eavesdropping in *Berger* v. *New York*, 388 U.S. 41 (1967), and *Katz* v. *United States*, 389 U.S. 347 (1967), which the Court of Appeals now declares to be equally applicable to video electronic surveillance.

Although upholding video surveillance in *Teicher*, the Court of Appeals expressly limited its opinion, and the guidance to be drawn from it [52 N.Y.2d at p. 656 (emphasis supplied)]:

> As we have stressed, the constitutional requirements outlined for eavesdropping in *Berger* v. *New York* (388 U.S. 41, *supra)*, and *Katz* v. *United States* (389 U.S. 347, *supra)* are equally applicable to the area of video surveillance. While we have discussed several of these requirements in the instant case, our opinion should not be construed as an inventory of each of the necessary elements for such a warrant. The degree of intrusiveness inherent in video electronic surveillance demands unswerving adherence to each of the limitations placed upon the use of this device. *Moreover, because the use of this investigative technique poses a threat to the privacy of citizens, legislative scrutiny of the field and the enactment of specific guidelines would appear to be in order.*

This proposal would implement the Court's suggestion. It prescribes strict conditions to be met before a judge may issue a warrant authorizing video surveillance, and equally strict procedures to be followed in the warrant's execution. Significantly, it authorizes issuance of a video surveillance warrant only as a last resort, when it is clear that all normal nonelectronic investigative techniques have failed to produce evidence, or would fail if tried. *See* proposed §695.20(2) (d). The *Berger/Katz* standards as to eavesdropping are embraced; accordingly, probable cause, specificity and minimization standards have been included and patterned after those set forth in Article 700 of the Criminal Procedure Law with respect to eavesdropping warrants. Provisions for recording, extension orders, notice, sealing, and the disclosure and use of information derived from video surveillance have also been included, likewise paralleling those prescribed by Article 700.

This proposal, recommended last year as well, has been changed from last year's proposal to add a provision (proposed §695.65) clarifying that a video surveillance warrant obtained in accordance with the provisions of Article 695 shall be deemed to include authorization to conduct eavesdropping simultaneously with video surveillance.

Proposal

AN ACT

To amend the criminal procedure law, in relation to securing evidence by use of video surveillance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The criminal procedure law is amended by adding a new article six hundred ninety-five to read as follows:

Article 695-VIDEO SURVEILLANCE WARRANTS

§695.05 Video surveillance warrants; definition of terms.
§695.10 Video surveillance warrants; in general.
§695.15 Video surveillance warrants; when issuable.
§695.20 Video surveillance warrants; application.
§695.25 Video surveillance warrants; determination of application.
§695.30 Video surveillance werrants; form and content.
§695.35 Video surveillance warrants; manner and time of execution.
§695.40 Video surveillance warrants; order of extension.
§695.45 Video surveillance warrants; progress reports and notices.
§695.50 Video surveillance warrants; custody of warrants, applications and recordings.
§695.55 Video surveillance warrants; disclosure and use of information; order of amendment.
§695.60 Video surveillance warrants; notice before use of evidence.

§695.05 Video surveillance warrants; definition of terms.

As used in this article, the following terms have the following meanings:

1. "Video surveillance" means the intentional visual observation of a person by means of a television camera or other similar electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or videotape, and under circumstances whereby such observation, in the absence of a video surveillance warrant, infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States.

2. "Video surveillance warrant" means an order issued by a justice authorizing video surveillance.

3. "Justice", except as otherwise provided herein, means any justice of an appellate division of the judicial department in which the video surveillance warrant is to be executed, or any justice of the supreme court of the judicial district in which the video surveillance warrant is to be executed, or any county court judge of the county in which the video surveillance warrant is to be executed.

4. "Exigent circumstances" means conditions requiring the preservation of secrecy, and whereby there is a reasonable likelihood that a continuing investigation would be thwarted by alerting any of the persons subject to surveillance to the fact that such surveillance had occurred.

5. "Law enforcement officer" means any police officer, peace officer or district attorney.

6. "Specified offense" means any felony defined by the penal law or an attempt to commit any such felony.

§695.10 Video surveillance warrants; in general. 1. Under circumstances prescribed in this article, a justice may issue a video surveillance warrant upon ex parte application of a district attorney or the attorney general.

2. A video surveillance warrant may only be executed by a law enforcement officer or a person acting pursuant to his direction or in cooperation with him.

3. No video surveillance warrant may authorize or approve the video surveillance of any specified person for any period longer than is necessary to achieve the objective of the authorization, or in any event longer than thirty days.

§695.15. Video surveillance warrants; when issuable. A video surveillance warrant may be issued only upon: 1. An appropriate application made in conformity with this article; and

2. Probable cause to believe that a particularly described person is committing or is about to commit a specified offense; and

3. Probable cause to believe that a particular activity related to the commission of the specified offense will be observed through the use of video surveillance; and

4. A showing that normal, nonelectronic investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed if tried, or to be too dangerous to employ; and

5. Probable cause to believe that the place where the video surveillance is to be conducted is being used, or is about to be used, in connection with the commission of the specified offense, or is leased to, listed in the name of, or commonly used by such person.

§695.20 Video surveillance warrants; application. 1. An ex parte application for a video surveillance warrant must be made to a justice in writing, and must be subscribed and sworn to by the applicant therefor.

2. The application must contain: (a) The identity of the applicant and a statement of the applicant's authority to make such application; and

(b) A particular description of the place or places where the video surveillance is to be conducted, and the identity, if known, of the person or persons whose activities are sought to be observed; and

(c) A full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that a video surveillance warrant should be issued, including a statement of facts supporting a finding of probable cause to believe the matters set forth in subdivisions two, three and five of section 695.15; and

(d) A full and complete statement of facts establishing that normal, nonelectronic investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ, to obtain the evidence sought; and

(e) A statement of the period of time for which the video surveillance is required to be maintained. If the nature of the investigation is such that the authorization for video surveillance should not automatically terminate when the described type of activity has been first observed, a particular description of facts establishing probable cause to believe that additional activity of the same type will occur thereafter; and

(f) A full and complete statement of facts concerning all previous applications, known to the applicant, for a video surveillance warrant involving any of the same persons or places specified in the application, and the action taken by the justice on each such application.

3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described, and the application must contain facts establishing the existence and reliability of the informants or the reliability of the information supplied by them. The application must also state, so far as possible, the basis of the informant's knowledge or belief. Affidavits of persons other than the applicant may be submitted in conjunction with the application if they tend to support any fact or conclusion alleged therein. Such accompanying affidavits may be based either on personal

knowledge of the affiant, or information and belief with the source thereof and the reason therefor specified.

§695.25 Video surveillance warrants; determination of application. 1. If the application conforms to section 695.20, the justice may require the applicant to furnish additional testimony or documentary evidence in support of the application. He may examine, under oath, any person for the purpose of determining whether grounds exist for the issuance of the warrant pursuant to section 695.15. Any such examination must be either recorded or summarized in writing.

2. If the justice determines on the basis of the facts submitted by the applicant that grounds exist for the issuance of a video surveillance warrant pursuant to section 695.15, the justice may grant the application and issue a video surveillance warrant, in accordance with section 695.30.

3. If the application does not conform to section 695.20, or if the justice is not satisfied that grounds exist for the issuance of a video surveillance warrant, the application must be denied.

§695.30 Video surveillance warrants; form and content. A video surveillance warrant must contain: 1. The name of the applicant, date of issuance, and the subscription and title of the issuing justice; and

2. The identity of the person or persons, if known, whose activities are to be subject to video surveillance; and

3. The place or places to be subject to video surveillance; and

4. A particular description of the activity sought to be observed, and a statement of the specified offense to which it relates; and

5. The identity of the person or persons authorized to conduct the video surveillance; and

6. The period of time during which the video surveillance is authorized, including a statement as to whether or not it shall automatically terminate when the described activity has been first observed; and

7. A provision that the authorization for video surveillance shall be executed as soon as practicable, shall be conducted in such a way as to minimize the surveillance of activities not specifically sought, by the terms of the warrant, to be observed and must terminate upon attainment of the authorized objective, or in any event in thirty days; and

8. An express authorization to make secret entry upon a private place or premises to install any instrument, device or equipment necessary to conduct video surveillance, if such entry is necessary to execute the warrant.

§695.35 Video surveillance warrants; manner and time of execution. 1. A video surveillance warrant must be executed according to its terms by the person or persons authorized therein.

2. Upon termination of the authorization in the warrant, video surveillance as provided therein must cease and any instrument, device or equipment installed for such purpose must be removed or permanently inactivated as soon as practicable. Entry upon a private place or premise for the removal or permanent inactivation of such instrument, device or equipment is deemed to be authorized by the warrant.

3. Any activity observed by video surveillance by any means authorized by this article must be recorded. The recording of such activity must be done in such a way as will protect the recording from editing or other alterations.

§695.40 Video surveillance warrants; order of extension. Any time prior to the expiration of a video surveillance warrant, the applicant may apply to the issuing justice, or, if he is unavailable, to another justice, for an order of extension. The period of extension shall be no longer than the justice deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. The application for an order of extension must conform in all respects to the provisions of section 695.20 and, in addition, must contain a statement summarizing the activities thus far observed through the video surveillance, together with a reasonable explanation for the failure to achieve completely the warrant's authorized objective.

The provisions of sections 695.15 and 695.25 are applicable in the determination of such application. The order of extension must conform in all respects to the provisions of section 695.30. In the execution of such order of extension the provisions of section 695.35 are applicable.

§695.45 Video surveillance warrants; progress reports and notice. 1. A video surveillance warrant may require reports to be made to the issuing justice showing what progress has been made toward achievement of the authorized objective and the need for continued video surveillance. Such report shall be made at such intervals as the justice may require.

2. Immediately upon the expiration of the period of a video surveillance warrant, the records made pursuant to subdivision three of section 695.35 must be made available to the issuing justice and sealed under his directions.

3. Within a reasonable time, but in no case later than ninety days after termination of a video surveillance warrant, or expiration of an extension order, except as otherwise provided in subdivision four of this section, written notice of the fact and date of the issuance of the video surveillance warrant, and of the period of authorized video surveillance, and of the fact that during such period, activities of any person or persons were or were not observed through such surveillance, must be personally served upon each person named in the warrant and such other parties to the observed activities as the justice may determine in his discretion is the interest of justice. The justice, upon the filing of a motion by any person served with such notice, may in his discretion make available to such person or his counsel for inspection such portions of the records made pursuant to subdivision three of section 695.35, any video surveillance warrant or order of extension and any applications therefor as the justice determines to be in the interest of justice.

4. On a showing of exigent circumstances to the issuing justice, the service of the notice required by sub-

division three of this section may be postponed by order of the justice for a reasonable period of time. Renewals of an order of postponement may be obtained on a new showing of exigent circumstances.

§695.50 Video surveillance warrants; custody of warrants, applications and recordings. 1. Applications made and warrants issued under this article shall be sealed by the justice. Any video surveillance warrant, together with a copy of papers upon which the application is based, shall be delivered to and retained by the applicant as authority for the surveillance authorized therein. A copy of such video surveillance warrant, together with all the original papers upon which the application was based, must be retained by the justice issuing the same, and, in the event of the denial of an application for such a video surveillance warrant, a copy of the papers upon which the application was based must be retained by the justice denying the same. Such applications and warrants may be disclosed only upon a showing of good cause before a court and may not be destroyed except on order of the issuing or denying justice, and in any event must be kept for ten years.

2. Custody of the recordings made pursuant to subdivision three of section 695.35 may be wherever the justice orders. They may not be destroyed except upon an order of the justice who issued the warrant and in any event must be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subdivisions one and two of section 695.55 for investigations.

§695.55 Video surveillance warrants; disclosure and use of information; order of amendment. 1. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any recording of an observed activity, or evidence derived therefrom, may disclose such contents to another law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of any of the contents of any recording of an observed activity, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of his official duties.

3. Any person who has received, by any means authorized by this article, any information concerning an activity, or evidence derived therefrom, observed in accordance with the provisions of this article, may disclose that activity or such derivative evidence while giving testimony under oath in any criminal proceeding in any court or in any grand jury proceeding; provided however, that the presence of the seal provided for by subdivision two of section 695.45, or a satisfactory explanation of the absence thereof, shall be a prerequisite for the use or disclosure of any activity or evidence derived therefrom.

4. When a law enforcement officer who, by any means authorized by this article, records an activity which was not otherwise anticipated and which constitutes evidence of any crime that has been, is being or is about to be committed, the contents of such recording, and evidence derived therefrom, may be disclosed or used as provided in subdivisions one and two of this section. Such contents and any evidence derived therefrom may be used under subdivision three of this section when a justice amends the video surveillance warrant to include such contents. The application for such amendment must be made by the applicant as soon as practicable. If the justice finds that such contents were recorded in accordance with the provisions of this article, he may grant the application.

§695.60 Video surveillance warrants; notice before use of evidence. The recording of any activity, or evidence derived therefrom, may not be received in evidence or otherwise disclosed upon a trial of a defendant unless the people, within fifteen days after arraignment and before the commencement of the trial, furnish the defendant with a copy of the video surveillance warrant and accompanying application, under which recording was authorized or approved. This fifteen day period may be extended by the trial court upon good cause shown if it finds that the defendant will not be prejudiced by the delay in receiving such papers.

§695.65 Video surveillance warrants; deemed to include authorization for eavesdropping. A video surveillance warrant obtained in accordance with the provisions of this article shall be deemed to include authorization to conduct eavesdropping, as defined in section 700.05, simultaneously with video surveillance.

§2. Section 710.20 of such law, as amended by chapter eight of the laws of nineteen hundred seventy-six, subdivision three as amended by chapter two hundred fourteen of the laws of nineteen hundred eighty-two, subdivision five as added and subdivision six as so renumbered by chapter four hundred eighty-one of the laws of nineteen hundred eighty-three, is amended to read as follows:

§710.20 Motion to suppress evidence; in general; grounds for. Upon motion of a defendant who (a) is aggrieved by unlawful or improper acquisition of evidence and has reasonable cause to believe that such may be offered against him in a criminal action, or (b) claims that improper identification testimony may be offered against him in a criminal action, a court may, under circumstances prescribed in this article, order that such evidence be suppressed or excluded upon the ground that it:

1. Consists of tangible property obtained by means of an unlawful search and seizure under circumstances precluding admissibility thereof in a criminal action against such defendant; or

2. Consists of a record or potential testimony reciting or describing declarations or conversations overheard or recorded by means of eavesdropping, obtained under circumstances precluding admissibility thereof in a criminal action against such defendant; or

3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made, within the meaning of section 60.45; or

4. *Consists of video surveillance accomplished in violation of the provisions of article six hundred ninety-five; or*

5. Was obtained as a result of other evidence obtained in a manner described in [subdivisions] *subdivision* one, two [and] , three *or four;* or

[5] *6.* Consists of a chemical test of the defendant's blood administered in violation of the provisions of section eleven hundred ninety-four-a of the vehicle and traffic law or any other applicable law; or

[6] *7.* Conists of potential testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the proposective trial of such charge owing to an improperly made previous identification of the defendant by the prospective witness.

§3. This act shall take effect on the sixtieth day after it shall have become a law.

2. Applications for Court Orders Compelling Submission to Chemical Tests
(Vehicle and Traffic Law §1194-a)

During its 1983 Session, the Legislature enacted procedures to permit law enforcement personnel to obtain a court order compelling a driver, under certain circumstances, to submit to a chemical test to ascertain the alcoholic or drug content of his or her blood. L.1983, c.481. Under chapter 481, only Supreme Court justices, County Court judges and District Court judges are authorized to entertain applications and to grant such orders outside New York City. It is recommended that section 1194-a(3) (a) of the Vehicle and Traffic Law, as added by chapter 481, be amended to extend such authorization to all judges of local criminal courts outside New York City, so long as it is exercised by a judge sitting within the municipality in which: (i) the incident occurred, (ii) the chemical test is to be conducted or (iii) the accused is located.

This proposal would remedy an anomaly under current law whereby a judge of a local criminal court is permitted to issue a search warrant (including a search warrant upon oral application) and yet is denied authority to issue analogous orders compelling submission to chemical tests. At the same time, it will have the salutary effect of increasing the number of judges available to entertain applications for chemical test orders. Hence, section 1194-a(3) (f), requiring the Chief Administrator of the Courts to establish a schedule insuring that there are always a sufficient number of judges available to hear these applications, no longer will be necessary.

This proposal, recommended last year as well, has been changed from last year's proposal to eliminate an amendment to section 1194-a(3) (c) to extend from 24 to 72 hours the time in which to file the transcript of an oral application for a chemical test order. That amendment was effected by Chapter 755 of the Laws of 1985.

Proposal

AN ACT

To amend the vehicle and traffic law, in relation to applications for court orders compelling submission to chemical tests

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (a) of subdivision three of section eleven hundred ninety-four-a of the vehicle and traffic law, as added by chapter four hundred eighty-one of the laws of nineteen hundred eighty-three, is amended to read as follows:

(a) An application for a court order to compel submission of [a] *any* chemical test may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. *An application for a court order to compel submission to a chemical test may also be made to any city court judge, town justice or village justice in the city, town or village, respectively, in which (i) the incident occurred, (ii) the chemical test is to be conducted, or (iii) the accused is located.* Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

§2. Paragraph (f) of subdivision three of section eleven hundred ninety-four-a of such law is REPEALED.

§3. This act shall take effect immediately.

REPEAL NOTE: — Paragraph (f) of subdivision three of section eleven hundred ninety-four-a of the Vehicle and Traffic Law, to be repealed by this act, requires the Chief Administrator of the Courts to establish a schedule insuring that there will be a sufficient number of judges available to hear oral applications for permission to conduct a chemical test.

3. Discovery of Prior Uncharged Criminal, Vicious or Immoral Acts
(CPL 240.20)

The Committee recommends that section 240.20(1) of the Criminal Procedure Law be amended to require pretrial disclosure or prior criminal, vicious or immoral acts that the prosecution intends to introduce for impeachment purposes at trial.

In *People* v. *Sandoval,* 34 N.Y.2d 271 (1974), the Court of Appeals approved a procedure whereby defendant may secure a ruling, in advance of trail, limiting the prosecutor's use on cross-examination of prior criminal, vicious and immoral acts. The Court of Appeals held that "In each case the defendant shall inform the court of the prior convictions and misconduct which might unfairly affect him as a witness in his own behalf." 34 N.Y.2d at 378.

The First Department recently has called into question so much of *Sandoval* as suggests that the defendant has the burden of informing the court of prior uncharged crimes to secure a pretrial ruling on the scope of cross-examination as to such crimes. In *People* v. *Simpson,* 109 A.D.2d 461, 492 N.Y.S.2d 609 (1st Dept. 1985), the Court noted that it is proper to place this burden on defendant with respect to prior arrests, since both the prosecutor and the defense equally are aware of these matters. As concerns prior uncharged crimes, however, the Court held that it is unrealistic to expect defendants to inform their counsel of crimes for which they never were arrested and unfair to assume that defendant in fact is guilty of such crimes. 492 N.Y.S.2d at 613. The Court concluded that the requirement that defendant inform the court of prior uncharged crimes, "effectively precludes pre-trial consideration by the court of the appropriateness of the most doubtful kind of cross-examination." *id.*

Following the First Department's suggestion in *People* v. *Simpson,* this measure would place the burden on the prosecution to disclose to defendant prior to trial those uncharged crimes that it intends to use for impeachment purposes. Since the court's reasoning applies equally well to prior vicious or immoral acts that the People intend to rely on at trial, this measure also would require pretrial disclosure of any such acts. The measure would not affect the existing requirement that defendant bring to the court's attention prior convictions and arrests on which an advance ruling as to the permissible scope of cross-examination is sought.

Proposal

AN ACT

To amend the criminal procedure law, in relation to discovery of prior uncharged criminal, vicious or immoral acts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision one of section 240.20 of the criminal procedure law is amended to add a new paragraph (j), to read as follows:

(j) *Any prior uncharged criminal, vicious or immoral acts that the prosecution intends to introduce for impeachment purposes at trial.*

§2. The act shall take effect sixty days after it shall have become law.

4. Conversion of Misdemeanor Complaint to Information (CPL 100.40, 170.65)

The Committee recommends that sections 100.40 and 170.65 of the Criminal Procedure Law be amended to permit a misdemeanor complaint to be converted to an information based on the unsworn testimony of a child witness, together with any corroborating evidence.

Under present law, unless defendant waives prosecution by information, a misdemeanor complaint must be replaced by an information (CPL §170.65(1), (3)). An information is a written acusation that must be verified by being sworn to before the court in which it is filed, a desk officer or any of his superior officers, or a notary public, or by having the deponent sign a form bearing notice that false statements therein are punishable as a class A misdemeanor. CPL §§100.10, 100.30.

The requirement of prosecution by sworn information may present a problem where the complainant is a child. Section 60.20(2) of the Criminal Procedure Law provides that a child less than twelve years old may not testify under oath unless the court is satisfied that he understands the nature of an oath. Where a child cannot be sworn under section 60.20(2) because he does not understand the nature of an oath, the requirement that his accusations be verified cannot be satisfied, and the information thereby may be rendered legally insufficient. *See People* v. *Bryan S.*, N.Y.L.J., 9/12/85, p. 6, col. 6 (Crim. Ct. N.Y. Co.).

If the inability of a child to swear to an information results in dismissal of an information for insufficiency, the prosecutor's sole recourse is to ask the grand jury to direct the district attorney to file a prosecutor's information with a local criminal court (*see* CPL §190.60(2)). Since section 60.20(2) permits a child witness who cannot be sworn to give unsworn oral testimony where the court is satisifed that the child possesses sufficient intelligence and capacity to justify reception thereof, the grand jury may direct the filing of a prosecutor's information on the basis of such unsworn testimony, together with any supporting evidence. In *People* v. *Bryan S.*, the Court noted that it was aware of the difficulty and expense of securing a prosecutor's information for misdemeanor charges. Thus, as a practical matter, the requirement of securing a prosecutor's information may result in the discontinuation of prosecution of many cases in which a child complainant cannot be sworn.

In view of the large number of child abuse cases in which this issue may arise, the Court in *People* v. *Bryan S.* recommended that the Legislature amend the Criminal Procedure Law to permit a complaint to be converted to an information based on unsworn, but reliable, testimony of a child, together with any corroborating evidence. This measure seeks to implement the Court's suggestion by appropriate amendments to sections 100.40(1)(c) and 170.65(1) of the Criminal Procedure Law. It provides that where a complaint does not satisfy the requirements for a valid information solely because of the inability of a child less than 12 years old to understand the nature of an oath, such requirements shall be deemed satisfied where the unsworn allegations of the child, together with any supporting evidence, if true, are sufficient to establish every element of the offense and defendant's commission thereof. In place of the present necessity of obtaining a prosecutor's information, this measure would substitute a simple procedure that would protect victims of child abuse without violating defendant's rights.

Proposal

AN ACT

To amend the criminal procedure law, in relation to converting misdemeanor complaints to informations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (c) of subdivision one of section 100.40 of the criminal procedure law, is amended to read as follows:

(c) [Non-hearsay] *Except as otherwise provided in subdivision one of section 170.65, nonhearsay* allegations of the factual part of the information and/or supporting depositions establish, if true, every element of the offense charged and the defendant's commission thereof.

§2. Subdivision one of section 170.65 of such law is amended to read as follows:

1. A defendant against whom a misdemeanor complaint is pending is not required to enter a plea thereto. For purposes of prosecution, such instrument must, except as provided in subdivision three, be replaced by an information, and the defendant must be arraigned thereon. If the misdemeanor complaint is supplemented by a supporting deposition and such instruments taken together satisfy the requirements for a valid information, such misdemeanor complaint is deemed to have been converted to and to constitute a replacing information. *Where a misdemeanor complaint does not satisfy the requirements for a valid information solely because of the inability of a child less than twelve years old to understand the nature of an oath, the aforesaid requirements shall be deemed satisfied where the unsworn allegations of such child, as set forth in the accusatory instrument or supporting deposition, together with any supporting evidence, if true, are sufficient to establish every element of the offense charged and of defendant's commission thereof.*

§3. This act shall take effect thirty days after it shall have become law.

5. Referral of Selected Felonies to Dispute Resolution (Judiciary Law §849-b)

The Committee recommends that section 849-b(4) (f) of the Judiciary Law be amended to permit selected felonies to be referred to dispute resolution.

In 1981, the Judiciary Law was amended to authorize the establishment of the Community Dispute Resolution Centers Program. Section 849-b(4) (f) of the Judiciary Law provides, *inter alia,* that a community dispute resolution center may not accept for dispute resolution:

> any defendant who has a pending felony charge contained in an indictment or information arising out of the same transaction or involving the same parties, or who is named in a filed accusatory instrument...(i) charging a violent felony offense...or (ii) any drug offense...or (iii) if convicted, would be a second felony offender...

We understand this language to prohibit referral to dispute resolution of felonies charged in an indictment or superior court information and certain felonies charged in a felony complaint. The use of the general term "information" is confusing, however, and has led some district attorneys to take the position that no felony charged in a felony complaint involving the same facts may be referred to dispute resolution. We do not believe this to have been the Legislature's intent; many acts that constitute felonies are amenable to mediation. This amendment would carry out the Legislature's original intent by clarifying that certain felony charges in a felony complaint may be diverted to dispute resolution.

Proposal

AN ACT

To amend the judiciary law, in relation to referral of selected felonies to dispute resolution

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (f) of subdivision four of section eight hundred forty-nine-b of the judiciary law, as added by chapter eight hundred forty-seven of the laws of nineteen hundred eighty-one, is amended to read as follows:

(f) it does not accept for dispute resolution any defendant who has a pending felony charge contained in an indictment or *superior court* information arising out of the same transaction or involving the same parties, or who is named in a filed [accusatory instrument] *felony complaint* [(i)] charging *(i)* a violent felony offense ad defined in section 70.02 of the penal law, or (ii) any drug offense as defined in article two hundred twenty of the penal law, or (iii) [if convicted, would be] *a felony, the conviction of which would require defendant to be sentenced as* a second felony offender [as defined in] *pursuant to* section 70.06 of the penal law.

§2. This act shall take effect thirty days after it shall have become law.

6. Videotaping of Examinations on Commission (CPL Article 680)

The Committee recommends that sections 680.10, 680.20, 680.60, 680.70 and 680.80 of the Criminal Procedure Law be amended to permit examinations of witnesses on commission to be videotaped.

In its Ninth Annual Report to the Chief Administrator of the Courts and the Judicial Conference (p. 149), the Advisory Committee recommended that Article 660 be amended to permit conditional examinations to be videotaped, because:

> The use of videotape in preserving deposition testimony provides a procedure which assures the accuracy and the integrity of the record. It provides a permanent viewable record of both direct testimony and cross-examination of the deponent, thereby enabling the jury to observe the demeanor of the witness while testifying.

Article 660 was amended in 1980 in accordance with the recommendations of the Advisory Committee. No corresponding amendment, however, was made to Article 680 with respect to examinations on commission. Since the only distinction between an examination on a commission and a conditional examination is that the former takes place out of state *(see People* v. *Simpson,* N.Y.L.J., 5/20/85, p. 15, cols. 4-5, n.4), the same reasons for permitting conditional examinations to be videotaped obtain for examinations on commission. Article 680 therefore should be amended to expressly authorize videotaping of such examinations.

Although sections 660.40(2) and 680.50(3) of the Criminal Procedure Law require a videotaped conditional examination to be transcribed, the state of the art now justifies using videotaping as an alternative to transcribing a witness's testimony. This measure therefore gives the court discretion to permit videotaping in lieu of, or in addition to, transcription.

Proposal

AN ACT

To amend the criminal procedure law, in relation to videotaping of examinations of witnesses on commission

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision two of section 680.10 of the criminal procedure law is amended to read as follows:

2. A "commission" is a process issued by a superior court designating one or more persons as commissioners and authorizing them to conduct a recorded examination of a witness or witnesses under oath, primarily on the basis of interrogatories annexed to the commission [, and to remit to the issuing court the transcript of such examination].

§2. Subdivision three of section 680.20 of such law is renumbered to be four and a new subdivision three is added to such section to read as follows:

3. The application for issuance of a commission may request that the examination pursuant thereto, in addition or as an alternative to its being recorded in the same manner as would be required were the witness testifying at trial, be recorded by videotape or other photographic or electronic method in conformance with standards and administrative policies promulgated pursuant to section twenty-eight of article six of the constitution.

§3. Paragraph (d) of subdivision one of section 680.60 of such law is amended to read as follows:

(d) A direction that, upon completion of such examination, such commissioner or commissioners [cause it to be transcribed and] remit to the court the transcript, *if any*, the commission, the interrogatories and all other pertinent instruments and documents.

§4. Subdivision two of section 680.60 of such law is renumbered to be three and a new subdivision two is added to such section to read as follows:

2. The commission must contain one or more of the following:

(a) A direction that, upon completion of such examination, such commissioner or commissioners cause it to be transcribed;

(b) A direction that the examination be recorded by videotape or other photographic or electronic method in conformance with standards and administrative policies promulgated pursuant to section twenty-eight of article six of the constitution.

§5. Subdivisions one and five of section 680.70 of such law are amended to read as follows:

1. Each witness must testify under oath, and the examination must be recorded [and transcribed] *in the manner directed pursuant to subdivision two of section 680.60.*

5. [After the examination is transcribed,] *Any transcript, videotape or photographic or electronic recording of the examination must be certified by* the commissioner or commissioners [must subscribe and certify the transcript] as an accurate record of the proceedings, and must then [remit such transcript and] *be remitted to the court that issued the commission, together with* all other pertinent instruments, documents and evidence [to the court which issued the commission], in accordance with the directions [thereof] *of the commission.*

§6. Subdivision two of section 680.80 of such law is amended to read as follows:

2. Upon the trial of the action, either party may, subject to the provisions of subdivision three, introduce and read into evidence [the] *any* transcript or [that] *any* portion thereof containing the testimony of a witness examined on the commission *and may play any videotape or photographic or electronic recording of such testimony.*

§7. This act shall take effect thirty days after it shall have become law.

7. Mandatory Surcharges (CPL 420.35)

The Committee recommends that section 420.35 of the Criminal Procedure Law be amended to clarify that mandatory surcharges need not be entered and docketed by the county clerk as civil money judgments.

Chapter 233 of the Laws of 1985 amended section 420.10(6) of the Criminal Procedure Law to provide, *inter alia*, that a fine shall be imposed by a written order and that a certified copy of such order must be filed with the county clerk. Chapter 233 further provides that an order imposing a fine shall be entered and docketed by the county clerk as a money judgment, and may be enforced in the same manner as a judgment in a civil action.

Although section 420.10(6) is concerned with fines, section 420.35 provides that the provisions of section 420.10 governing the collection of fines shall apply to mandatory surcharges imposed pursuant to section 60.35 of the Penal Law. The result of the recent amendment to section 420.10 thus may be to require that all mandatory surcharges be imposed by written order, and that such orders be entered and docketed by the county clerk as civil money judgments. It makes little sense to impose such requirements with respect to mandatory surcharges which, unless waived, are required to be levied for all criminal convictions and are in relatively small amounts ($100 for a felony, $60 for a misdemeanor and $25 for a violation). It is unlikely that civil money judgments in such small amounts would ever become the subject of an enforcement proceeding, and a requirement that all mandatory surcharges be so docketed would create an enormous, and unnecessary, burden to court clerical personnel. This measure accordingly would amend section 420.35 to correct what we are certain was an unintended result and to clarify that mandatory surcharges need not be filed with or entered and docketed by the county clerk.

Proposal

AN ACT

To amend the criminal procedure law, in relation to mandatory surcharges

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The first unnumbered paragraph of section 420.35 of the criminal procedure law, as added by chapter fifty-five of the laws of nineteen hundred eighty-two and as amended by chapter fifteen of the laws of nineteen hundred eighty-three, is amended to read as follows:

> The provisions of section 420.10 of this article governing the collection of fines and the provisions of section 420.30 of this article governing the remission of fines and the provisions of section 430.20 of this chapter governing the commitment of a defendant for failure to pay a fine shall be applicable to a mandatory surcharge imposed pursuant to subdivision one of section 60.35 of the penal law or section eighteen hundred nine of the vehicle and traffic law. *Provided, however, that those provisions of section 420.10, requiring a fine to be entered and docketed by the county clerk as a civil money judgment, shall not apply to such mandatory surcharge.*

§2. This act shall take effect immediately.

IV. Conclusion

The Committee will continue to meet regularly to study and discuss all significant proposals affecting criminal law and procedure. We express our gratitude to the Chief Administrator of the Courts and the Judicial Conference for their support in achieving our shared objective of improving the criminal law.

Respectfully submitted,

THE ADVISORY COMMITTEE ON
CRIMINAL LAW AND PROCEDURE

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February, 1986

1986 Report

of the

Family Court and Rules Committee

of the

State of New York

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I. Introduction

In this 1986 Report of the Family Court Advisory and Rules Committee to the Chief Administrator of the Courts of the State of New York, the Committee recommends four bills for enactment by the 1986 Legislature. Of these, two have been previously endorsed, while two are entirely new.

A major new proposal would amend the Domestic Relations Law and pertinent sections of the Family Court Act to list relevant factors to be considered by a judge in determining custody of a child as between parents. The other new proposal would amend the Family Court Act, as it pertains to persons in need of supervision proceedings, to set an expiration period of six months for a warrant issued in lieu of a summons in these proceedings.

Part II of this Report summarizes each of the measures previously submitted and explains the purpose in each instance. Part III summarizes each of the measures being submitted for the first time and explains its purpose. In both Parts II and III, individual summaries are followed by drafts of appropriate legislation. Part IV briefly discusses pending and future projects under Committee consideration.

In addition to recommending its annual legislative program, the Committee reviews and comments on pending measures, other than its own, that affect Family Court procedure and family law.

II. Previously Endorsed Measures

1. Elimination of the Vestigial Family Court Jurisdiction in Education of Handicapped Children Proceedings. (FCA §§232,236; Educ. Law §§4401, 4406)

The Committee continues to recommend amendment of section 232 of the Family Court Act to eliminate incapacity for education from the present definition of a "physically handicapped child". It would also repeal present section 236 of the Family Court Act, which authorizes the court to enter orders for special educational services for handicapped children under 5 years of age or, if of school age, during the summer months. The Committee also recommends the amendment of present section 4401 of the Educational Law as it defines "special services or programs" to include summer session programs among those required to be provided like all other special services for handicapped children by the local school district and to repeal section 4406 which complements section 236 of the Family Court Act. The combination of these statutory changes would eliminate entirely the Family Court's remaining jurisdiction in the providing of education for handicapped children.

In 1976, the Legislature, recognizing the undesirability of the Family Court having jurisdiction over education for handicapped children, removed most of this responsibility from that court, setting up in its place, a regional administrative structure. Left unchanged, however, was the need for a Family Court order to cover special services for children under the age of 5 years and during the months of July and August for children over the age of 5 years who need the services when school is not in session.

It has been the position of this Committee that the full responsibility for determining and providing for the educational needs of all handicapped children regardless of age appropriately rests elsewhere and that the vestiges of Family Court jurisdiction should be repealed. A bill to that effect has been introduced in the Legislature for a number of years with the approval of this body. Numerous bills have been introduced in the Legislature from time to time accomplishing this result or part of it, but so far no change has been enacted into law. The issue standing in the way of accomplishing the result sought by the instant measure has not been the underlying principle of removal of jurisdiction from Family Court, but where in the executive branch it is to be placed. This measure simply opts for the same structure now existing for administering the needs of school age children during the school year.

Proposal

AN ACT

To amend the family court act and the education law, in relation to providing for the education of handicapped children and to repeal section two hundred thirty-six of the family court act and section forty-four hundred six of the education law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision (b) of section two hundred thirty-two of the family court act, as added by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, is amended to read as follows:

(b) "Physically handicapped child" means a person under twenty-one years of age who [, by reason of a physical defect or infirmity, whether congenital or acquired by accident, injury or disease, is or may be expected to be totally or partially incapacitated for education or for remunerative occupation, as provided in the education law,] *is handicapped by reason of a defect or disability, whether congenital or acquired by accident, injury or disease,* or is physically handicapped, as provided in section two thousand five hundred eighty-one of the public health law.

§2. Section two hundred thirty-six of such act is REPEALED.

§3. Subdivision one of section forty-four hundred one of the education law, as amended by chapter fifty-three of the laws of nineteen hundred eighty, is amended to read as follows:

1. A "child with a handicapping condition" means*:*

a. a person under the age of twenty-one who is entitled to attend public school pursuant to section thirty-two hundred two of this chapter, *or*

b. a person as defined by paragraph a of this subdivision who is not eligible for educational services pursuant to articles seventy-three, eighty-five, eighty-seven, or eighty-eight of this chapter, including those persons under the age of five not entitled to attend school without the payment of tuition pursuant to section thirty-two hundred two of this chapter, and who, because of mental, physical or emotional reasons can receive appropriate educational opportunities from special services and programs to include, but not be limited to, transportation, and the special services and programs delineated in subdivision two of this section.

§4. paragraph a of subdivision two of section forty-four hundred one of such law, as amended by chapter fifty-three of the laws of nineteen hundred eighty, is amended to read as follows:

a. Special classes, *summer session programs,* transitional support services, resources rooms, home instruction, and special teachers to include itinerant teachers as provided by the schools of the district of residence with such terms and services to be defined by regulations of the commissioner.

§5. Section forty-four hundred six of such law is REPEALED.

§6. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

REPEAL NOTE.—Section two hundred thirty-six of the family court act, proposed to be repealed by this act, gives the family court jurisdiction over the educational needs of certain handicapped children. Section forty-four hundred six of the education law, proposed to be repealed by this act, prescribes the procedures to be followed in children with handicapping conditions proceedings in the family court. These sections would be rendered obsolete by the enactment of this measure, which would place the educational needs of all handicapped children with the state education department.

2. Factors to be Considered by a Court in Making an Award of Child Support in a Paternity Proceeding (FCA §513)

This Committee recommends the amendment of section 513 of the Family Court Act to specify relevant factors which the court should consider in making an award of child support in a paternity proceeding after an order of filiation has been made. This would conform section 513 to sections 413 of the Family Court Act and 32(3) of the Domestic Relations Law, which were amended by chapter 362 of the laws of 1983 to incorporate the factors to be considered in making an award of child support in support proceedings, as required by DRL §236-B(7). Since the factors to be considered in making child support awards in paternity proceedings are the same as those considered in other proceedings in which support may be awarded, the statutes should be consistent.

The measure also would make clear that the obligation to support is subject to the provisions of section 398(6) (f) of the Social Services Law, which provides that a surrender of an out-of-wedlock child to the Department of Social Services by its mother relieves the mother from liability for support of that child.

Proposal

AN ACT

To amend the family court act, in relation to child support.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section five hundred thirteen of the family court act, is amended to read as follows:

§513. Obligation of parents. [Each] *Subject to the provisions of paragraph f of subdivision six of section three hundred ninety-eight of the social services law, each* parent of a child born out of wedlock is [liable for the necessary support and education of the child, and for] *chargeable with the support of such child including* the child's funeral expenses *and, if possessed of sufficient means or able to earn such means, may be required to pay for child's care, maintenance and education. A court shall make an award for child support pursuant to section five hundred forty-five after consideration of all relevant factors, including:*

(i) the financial resources of the parents and those of the child;

(ii) the physical and emotional health of the child, and his or her educational or vocational needs and aptitudes;

(iii) where practical and relevant, the standard of living previously established by the parents for the child;

(iv) where practical and relevant, the tax consequences to the parties; and

(v) the non-monetary contributions that the parents will make toward the care and well-being of the child. If a parent dies, an order of support or a judicially approved settlement made prior to that parent's death shall be enforceable as a claim against the deceased parent's estate in an amount to be determined by the surrogate's court not greater than is provided in said order of settlement, having regard to the age of the child, the ability of the surviving parent to support and educate it, the amount of property left by the deceased parent and the number, age and financial condition of those other persons legally entitled to support by the deceased parent during his or her lifetime.

§2. This act shall take effect sixty days after the date on which it shall have become a law.

III. New Measures

1. Factors to be Considered by a Court in Making an Award of Custody between Parents (DRL §§70 and 240; FCA §§447, 467, 549, 651 and 652)

This Committee recommends the amendment of pertinent sections of the Domestic Relations Law and the Family Court Act to list relevant factors to be considered by a court in making an award of custody where the issue arises between parents in a matrimonial proceeding or in an independent custody proceeding. The measure has the approval of the Advisory Committee on Civil practice.

The bill would amend sections 70 and 240 of the Domestic Relations Law, which relate to an award of custody between parents in a proceeding in Supreme Court, to list guidelines and criteria now scattered in case law. The measure also would add a provision to these sections requiring the court, where the issue of custody is contested, to state in writing the factors considered and the reasons for the decision.

Under present law, regardless of any agreement of the parties, the court has the ultimate authority and responsibility to determine which parent shall have custody of a child based upon what it conceives to be the best interest of the child. Factors considered relevant in making these determinations appear in a number of cases. *Friederwitzer* v. *Friederwitzer*, 55 N.Y.2d 89; *Eschbach* v. *Eschbach*, 56 N.Y.2d 167. Nevertheless, custody determinations continue to be complicatd and time-consuming, and the resultant delay and trauma for the child has been a matter of concern to the Committee. In its view, a legislative codification culled from case law would be of benefit to the judges and counsel and should help bench and bar shape the proceeding more expeditiously. This should result in the narrowing of issues and greater speed in the disposition of the case.

The measure also would amend sections 447, 467, 549, 651 and 652 of the Family Court Act, by incorporating in these provisions a reference to section 240 of the Domestic Relations Law, to add this codification to the Family Court Act for Family Court proceedings involving custody.

Proposal

AN ACT

To amend the domestic relations law and the family court act, in relation to child custody

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seventy of the domestic relations law is amended to read as follows:

§70. Habeas corpus for child detained by parent

1. Where a minor child is residing within this state, either parent may apply to the supreme court for a writ of habeas corpus to have such minor child brought before such court; and on the return thereof, the court, on due consideration, may award the natural guardianship, charge and custody of such child to either parent for such time, under such regulations and restrictions and with such provisions and directions, as the case may require, and may at any time thereafter vacate or modify such order. In all cases there shall be no prima facie right to the custody of the child in either parent, but the court shall determine solely what is for the best interest of the child, and what will best promote its welfare and happiness, and make award accordingly.

2. In awarding custody between the parties, the court shall consider and evaluate all relevant factors, which may include:

a. the child's emotional, physical and educational needs, including adjustment in school, home and the community, and need for stability;

b. the arrangements for the child proposed by each party;

c. the interrelationship and interaction of the child with the parent;

d. the interaction and interrelationship of the child with siblings and others who may significantly affect the child's best interests

e. the commitment of the parent to the care, supervision and guidance of the child;

f. the mental and physical health of the individuals involved;

g. the preference of the child, if the court deems the child competent to express a preference;

h. the custodial plans for the child's siblings;

i. the willingness of each of the parents to encourage and facilitate a close and continuing parent-child relationship between the child and the other parent, and the reasons, if unwilling;

j. any other factor considered by the court to be relevant in the determination of custody in the particular case.

3. In any decision made pursuant to subdivision two of this section where custody is contested, the court shall set forth in writing the factors it considered and the reasons for its decision. This requirement may not be waived by the parties or counsel.

Section 2. Section two hundred and forty of the domestic relations law as amended by chapter three hundred forty-seven of the laws of nineteen hundred eighty-three is amended by the renumbering of present subdivision 2 to be subdivision 3, and by addition of a new subdivision 2 to read as follows:

2. (a) In giving such direction between the parties for the custody and care of any child of the parties, the court shall consider and evaluate all relevant factors, which may include:

(1) the child's emotional, physical and educational needs, including adjustment in school, home and the community, and need for stability;

(2) the arrangements for the child proposed by each party;

(3) the interrelationship and interaction of the child with the parent;

(4) the interaction and interrelationship of the child with siblings and others who may significantly affect the child's best interests;

(5) the commitment of the parent to the care, supervision and guidance of the child;

(6) the mental and physical health of the individuals involved;

(7) the preference of the child, if the court deems the child competent to express a preference;

(8) the custodial plans for the child's siblings;

(9) the willingness of each of the parents to encourage and facilitate a close and continuing parent-child relationship between the child and the other parent, and the reasons, if unwilling;

(10) any other factor considered by the court to be relevant in the determination of custody in the particular case.

(b) In any decision made pursuant to subdivision (a) of this section where custody is contested, the court shall set forth in writing the factors it considered and the reasons for

its decision. This requirement may not be waived by the parties or counsel.

Section 3. Subdivision (a) of section four hundred and forty-seven of the family court act is amended to read as follows:

(a) In the absence of an order of custody or of visitation entered by the supreme court, the court may make an order of custody or of visitation *in accordance with the provisions of section two hundred and forty of the domestic relations law*, requiring one parent to permit the other to visit the children at stated periods without an order of protection, even where the parents are divorced and the support order is for a child only.

Section 4. Subdivision (c) of section four hundred and sixty-seven of the family court act as amended by chapter forty of the laws of nineteen hundred and eighty-one is amended as follows:

(c) In any determination of an application pursuant to this section, the family court shall have jurisdiction to determine such applications *in accordance with the provisions of section two hundred and forty of the domestic relations law* with the same powers possessed by the supreme court and the family court's disposition of any such application is an order of the family court appealable only under article eleven of this act.

Section 5. Subdivision (a) of section five hundred and forty-nine of the family court act is amended as follows:

(a) If an order of filiation is made or if a paternity agreement or compromise is approved by the court, in the absence of an order of custody or of visitation entered by the supreme court the family court may make an order of custody or of visitation *in accordance with the provisions of section two hundred and forty of the domestic relations law*, requiring one parent to permit the other to visit the child or children at stated periods.

Section 6. Section six hundred and fifty-one of the family court act as amended by chapter two hundred and fifty of the laws of nineteen and eighty-three is amended as follows:

§651. Jurisdiction over habeas corpus proceedings and petitions for custody and visitations of minors. (a) When referred from the supreme court or county court to the family court, the family court has jurisdiction to determine *in accordance with the provisions of section two hundred and forty of the domestic relations law* with the same powers possessed by the supreme court in addition to its own powers, habeas corpus proceedings and proceedings brought by petition and order to show cause, for the determination of the custody or visitation of minors.

(b) When initiated in the family court, the family court has jurisdiction to determine *in accordance with the provisions of section two hundred and forty of the domestic relations law* with the same powers possessed by the supreme court in addition to its own powers, habeas corpus proceedings and proceedings brought by petition and order to show cause, for the determination of the custody or visitation of minors.

Section 7. Subdivision (c) of section six hundred and fifty-two of the family court act as amended by chapter forty of the laws of nineteen hundred and eighty-one is amended as follows:

(c) In any determination of an application pursuant to this section, the family court shall have jurisdiction to determine such applications *in accordance with the provisions of section two hundred and forty of the domestic relations law* with the same powers possessed by the supreme court and the family court's disposition of any such application is an order of the family court appealable only under article eleven of this act.

Section 9. This act shall take effect immediately.

2. Limiting Duration of Warrants in PINS Proceedings (FCA §738)

The Committee recommends the amendment of section 738 of the Family Court Act to fix a six-month time limit on the life of a warrant issued by the court in lieu of service of process in a PINS proceeding. At the present time, where a summons cannot be served, or the respondent has failed to appear, or the respondent is likely to leave the jurisdiction, or a summons is likely to be ineffectual, the court may issue a warrant. However, the warrant is open-ended and, periodically, the respondent is taken into custody pursuant to the warrant, even though the underlying conditions which occasioned the initiation of the PINS proceeding no longer obtain. Since PINS proceedings often rest upon sensitive and delicately-balanced relationships between parents and children, the stale exercise of a court's peremptory power can cause needless embarrassment and destructive tension within a family struggling to maintain equilibrium.

The measure would set a six-month time limit on the warrant but allow an extension of up to six months for cause, upon application by the petitioner.

Proposal

AN ACT

To amend the family court act, in relation to warrants for persons alleged to be in need of supervision

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section seven hundred and thirty-eight of the family court act is amended by adding a new paragraph thereto to read as follows:

A warrant issued for a respondent under this section shall expire at the end of six months from the date of its issuance, unless extended for an additional period of not more than six months upon application by the petitioner for good cause shown.

Section 2. This act shall take effect on the thirtieth day after approval thereof and shall not apply to warrants issued prior to its effective date.

IV. Pending and Future Matters

The Committee is in the process of completing certain projects, as well as initiating others:

1. It will continue to discuss the implementation of Chapter 809 of the Laws of 1985, which has brought about far-reaching changes in the structure of the Family Court and the processing of support and paternity proceedings. The widespread use of hearing examiners now mandated in these proceedings and the breadth of their authority has occasioned noticeable changes. After a period of experience with these changes, the Committee will review the applicable Uniform Family Court Rules to see what, if any, amendments should be recommended.

2. The Committee will complete its review and drafting of adoption forms to accommodate the new Uniform Family Court Rules and any legislation passed to address the recommendation by the Court of Appeals *In the Matter of Sara K.*, 66 N.Y.2d 223, decided November 18, 1985.

3. The Committee will discuss the operation of the Individual Assignment System in Family Court and suggest rule changes, if any seem indicated.

4. The Committee will monitor the implementation of the new sections of the Family Court Act recently passed to further permanency planning for children in foster care and will recommend statutory or administrative changes, where indicated.

Respectfully submitted,

Hon. Jack Turret,
Chairman
Hon. Arthur J. Abrams
Hon. Gene L. Catena
Hon. Nanette Dembitz
Marjory D. Fields, Esq.
Peter J. Fiorella, Jr., Esq.
Hon. William L. Kellick, Jr.
Hon. Mary Ann Killeen,
Hon. Leonard E. Maas

Hon. Kathryn McDonald
Hon. Edward J. McLaughlin
Hon. Richard M. Palmer
Hon. Anthony K. Pomilio
Hon. Cesar H. Quinones
Hon. Aileen Haas Schwartz
Hon. Robert H. Wagner
William G. O'Brien, Esq.
Frank Boccio, Esq.,
Consultant

Shirley Mitgang, *Counsel*

February, 1986

Appendix 1

Other Programs

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Retainer and Closing Statements

Under 22 NYCRR Parts 603, 551 and 1022, every attorney in a contingent fee in the First, Second and Fourth Judicial Departments* must file a Statement of Retainer with the Office of Court Administration in cases involving personal injury, property damage, wrongful death, or change of grade. This statement must be filed within 30 days of the date the lawyer is retained (15 days in the case of "of counsel" lawyers). It sets forth the date of the agreement, the terms of compensation, the agreement as to work and fee division between the original lawyer and the "of counsel" lawyer, and data about the person referring the client to the lawyer.

In addition, every such lawyer must file a closing statement with the Office of Court Administration within 15 days of the date the monies became available to him. This statement sets forth such information as the monetary amount of the settlement or award (if any). If an action was commenced, it contains the date, court and county of commencement and the method of the recovery, the person paying the recovery, the distribution of the recovery to the client and the lawyer's fees and other disbursements.

The purpose of these statements is to provide information for use by the three Appellate Divisions to prevent the charging of unconscionable fees in contingent fee cases and to discourage the unlawful solicitation of cases.

Table A-1 shows that 114,025 retainer statements were filed with the Office of Court Administration in 1985. This is an increase of about 7.5% from the previous year.

Table A-2 gives the court in which actions were terminated and the monetary breakdown by settlement or judgment. For cases commenced in the Supreme Court, the largest single group of cases terminated involved recoveries between $10,000 and $15,000. The largest single group of cases terminated in the lower courts involved recoveries between $1,000 and $4,000. The great majority of claims settled resulted in at least some monetary recovery. Although there were some very large recoveries, they were proportionately few; there were 3703 recoveries in the $50,000 to $100,000 category and 2809 recoveries over $100,000.

Statements of Approval of Compensation

Section 35-a of the Judiciary Law, as originally enacted by the Legislature in 1967, required the filing of a Statement of Appointment by each person appointed by the courts to perform services in actions and proceedings for a fee or an allowance. The statute called for these statements to be filed with the Judicial Conference within 30 days of an appointment. The required information included the name and the address of the appointee, the nature of the appointment, the title of litigation, and the name of the court and the judge or justice making the appointment.

In addition, within 30 days of receiving a fee, the appointee was required to execute a Statement of Services Rendered with other pertinent data related to the fee received. Under the statute, all statements filed were to be kept as matters of public record. The law also required that an annual summary of the information in the statement be furnished to the four Appellate Divisions of the Supreme Court for use in supervising court appointments in their Judicial Departments.

An extensive study of this system of two reports for each appointment revealed a number of inefficiencies. Not the least of these was the failure of many appointees to file a Statement of Services Rendered after payment of the fee. To deal with this problem, the Office of Court Administration sponsored legislation amending section 35-a which was enacted as Chapter 834, Laws of 1975, and which went into effect starting with appointments made after September 1, 1975.

Under the amended law, judges who approve fees are responsible for filing a single comprehensive statement, entitled Statement of Approval of Compensation on appointments for which the fee is more than $200. The judges are required to send the statements to the Office of Court Administration each week for data processing and filing. Fees of $200 or less are not required to be reported because they are believed to have little significance in the statistical study of appointments made in the court system.

In 1985 a total of 4,912 Statements of Approval of Compensation were filed with the Office of Court Administration. The new system accomplished its intended purpose of obtaining timely reports on court appointments without loss of required data provided by the older system.

Attorney Registration

Section 468-a of the Judiciary Law and the Rules of the Chief Administrator (22 Part 118) which requires every attorney admitted to practice in New York State on or before January 1, 1982, whether resident or non-resident, and whether or not in good standing to file a registration statement with the Chief Administrator of the Courts has been revised. Chapter 730 of the Laws of 1985 amended section 468-a of the Judiciary Law by (a) increasing the registration fee from $50 to $100 for all attorneys except those retired from the practice of law and (b) requiring that every attorney admitted to practice in New York State after January 1, 1986, whether resident or non-resident and whether or not in good standing, file a registration statement prior to taking the constitutional oath of office. The Rules of the Chief Administrator were also revised to reflect these amendments.

Every attorney is then required to reregister during each alternate year thereafter, within 30 days after the attorney's birthday, for as long as the attorney remains duly admitted to the New York Bar. The law also requires that an attorney notify the Office of Court Administration within 30 days of any change in business or residence address as well as registration status.

---

*At present, there is no filing rule for the Third Judicial Department

As of the end of calendar year 1985, approximately 97,000 attorneys were registered with the Office of Court Administration. During calendar year 1985, approximately 20,223 attorneys reregistered and $1,106,000 in registration fees were paid. Half of these fees are paid to the Client Security fund as prescribed by the Judiciary Law.

Table A-3 shows the breakdown of attorneys by county and department of business. Table A-4 gives the breakdown of attorneys by year of birth as furnished in the registration statement.

Adoption Affidavits

According to the Rules of the respective Appellate Divisions 22 NYCRR Parts 603.22 (1st Dept.), 691.23 (2nd Dept.), 806.13 (3rd Dept.) and 1022.32 (4th Dept.) all attorneys must file an affidavit as a condition to proceed with an adoption. The objective of this filing is to maintain a record of attorneys and agencies involved in adoptions and to record the fees, if any, charged for their services.

Once the attorney has been contacted to represent a client in an adoption proceeding, the attorney prepares a petition requesting an adoption. When the petition is filed, a docket number is issued by the court. The attorney's affidavit is completed in duplicate by the attorney who files one copy with the Office of Court Administration. During 1985, 6,151 adoption affidavits were filed with the Office of Court Administration.

Table A-1
RETAINER STATEMENT FILINGS BY MONTH
January 1, 1985 through December 31, 1985

Month	Number of Statements of Retainer Filed
January	10,802
February	8,505
March	8,860
April	9,824
May	9,677
June	10,131
July	10,051
August	9,861
September	7,669
October	11,080
November	8,133
December	9,432
Total	114,025

Table A-2
COURT AND MONETARY BREAKDOWN OF CLOSING STATEMENTS
January 1, 1985 through December 31, 1985

Amount of Recovery	Supreme Court		U.S. District Court		Court of Claims†		County Court	
	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment
1-499	191	6	10	...	2	3	2	...
500-999	241	2	19	...	1	...	4	...
1,000-1,999	1,036	6	52	1	4	1	6	...
2,000-2,999	1,665	10	25	...	1	...	9	...
3,000-3,999	2,240	11	36	...	5	1	10	...
4,000-4,999	2,184	6	18	1	10	...	5	...
5,000-5,999	2,618	15	36	...	10	...	7	...
6,000-6,999	2,306	10	21	...	10	...	3	...
7,000-7,999	3,192	10	34	...	12	...	8	...
8,000-8,999	1,765	8	14	1	2	...	1	...
9,000-9,999	2,160	10	15	...	5	...	2	...
10,000-14,999	6,817	52	97	4	14	...	5	...
15,000-19,999	3,813	26	86	1	9	...	...	...
20,000-24,999	2,382	21	45	3	9	...	...	...
25,000-29,999	1,883	14	46	4	4	...	...	...
30,000-34,999	1,166	14	37	4	...	...	...	...
35,000-49,999	2,443	22	92	2	3	1	...	...
50,000-99,999	3,485	62	131	6	9	5	...	...
100,000-up	2,480	112	191	17	5	3	...	...
Total with Recovery	44,067	417	1,005	44	115	14	62	
No Recovery	1,058		61		11		3	

Amount of Recovery	Civil Court		City Courts		District Court		Justice Court		All Courts		No Action*
	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled	Judgment	Settled
1-499	56	...	6	...	3	1	1	...	271	10	108
500-999	124	1	10	...	15	...	3	...	417	3	385
1,000-1,999	317	4	19	3	23	3	1	...	1,458	18	1,058
2,000-2,999	347	8	10	3	21	...	...	...	2,078	21	1,246
3,000-3,999	341	4	6	...	12	...	...	...	2,650	16	1,469
4,000-4,999	251	2	5	...	8	...	...	...	2,481	9	1,310
5,000-5,999	192	1	5	...	4	1	...	...	2,872	17	1,197
6,000-6,999	116	1	1	...	4	...	...	...	2,461	11	992
7,000-7,999	122	2	...	...	4	...	...	...	3,372	12	1,248
8,000-8,999	67	1	...	...	...	...	...	...	1,849	10	757
9,000-9,999	52	1	...	...	...	...	...	...	2,234	11	915
10,000-14,999	132	5	...	...	...	...	...	...	7,065	61	2,600
15,000-19,999	30	1	...	...	...	...	...	...	3,938	28	800
20,000-24,999	21	...	...	...	...	...	...	...	2,457	24	438
25,000-29,999	10	2	...	...	...	...	...	...	1,943	20	296
30,000-34,999	...	...	...	...	...	...	...	...	1,203	18	143
35,000-49,999	3	2	...	...	...	...	...	...	2,541	27	295
50,000-99,999	4	1	...	...	...	...	...	...	3,629	74	316
100,000-up	1	...	...	...	...	...	...	...	2,677	132	149
Total with Recovery	2,186	36	62	6	94	5	5		47,596	522	15,722
No Recovery	167		3		10				1,313		4,846

NOTE: Whenever individual closing statements were filed by attorneys acting jointly in a case, each statement received was included in these tabulations. Thus, the number of statements somewhat exceeds the total number of cases closed.

† Includes condemnation as well as tort matters.

* Item 3 of the closing statement requires that the court and date be indicated if an action was commenced. This category includes those statements in which this item is left blank.

Table A-3
Attorney Registration by Location

Location	Total
Albany	2,289
Allegany	41
Bronx	1,277
Broome	471
Cattaraugus	90
Cayuga	79
Chautauqua	186
Chemung	146
Chenango	57
Clinton	79
Columbia	82
Cortland	45
Delaware	59
Dutchess	481
Erie	2,580
Essex	82
Franklin	61
Fulton	64
Genesee	67
Greene	49
Hamilton	3
Herkimer	69
Jefferson	106
Kings	3,838
Lewis	16
Livingston	55
Madison	79
Monroe	2,063
Montgomery	62
Nassau	6,461
New York	42,528
Niagara	293
Oneida	405
Onondaga	1,439
Ontario	94
Orange	477
Orleans	29
Oswego	78
Otsego	82
Putnam	130
Queens	2,834
Rensselaer	239
Richmond	524
Rockland	673
St. Lawrence	86
Saratoga	196
Schenectady	333
Schoharie	32
Schuyler	17
Seneca	37
Steuben	111
Suffolk	2,531
Sullivan	153
Tioga	36
Tompkins	190
Ulster	236
Warren	143
Washington	56
Wayne	83
Westchester	3,806
Wyoming	29
Yates	19
Outside New York State	15,302
Missing County	2,556
Total	96,814
First Department	43,805
Second Department	21,755
Third Department	5,427
Fourth Department	7,969
Outside New York State	15,302
Missing County	2,556
Total	96,814

Table A-4
ATTORNEY REGISTRATION
By Date of Birth

Date of Birth	Total
1958-1962	4,695
1953-1957	17,143
1948-1952	17,702
1943-1947	14,331
1938-1942	8,896
1933-1937	6,561
1928-1932	7,216
1923-1927	5,530
1918-1922	3,987
Before 1918	10,321
Missing Dates	432
Total	96,814

APPENDIX 2

Family Court DATA

Under FCA, Sec. 213 and 385

Table A-5 (partial)
FAMILY COURT
Reasons for Petitious in Proceedings Involving Child Abuse
1985

Region County	Total Reasons (Child Abuse Only)	Reasons for Petitions													
		Child Abuse			Neglected Child										
		Physical Abuse	Risk of Physical Injury	or Offense Against Child	Impairment of Mental, Emotional ter Physical Health	Inadequate Food, Shelquate or Clothing	Indecal Educational Care	Indequate Medior or Surgical Care	Abandonment Par-Desertion	Parental Use of Drugs	Sexual ental Alcoholism	Parental Par-Misconduct	Parental Mental Illness	Parental Fight ing	Other
Total New York State	1,437	354	250	833	173	31	11	13	7	21	18	15	9	3	...
Total New York City	759	230	158	371	109	24	9	12	7	19	16	10	8	2	...
New York	65	30	15	20	15	2	1	...	...	4	...	1	...	...	...
Kings	186	64	63	59	30	12	2	2	1	2	4	5	...	...	...
Queens	160	36	27	97	20	4	1	7	1	2	1	...	7	...	...
Bronx	304	83	46	175	32	6	5	2	4	11	9	4	1	...	...
Richmond	44	17	7	20	12	...	...	1	1	...	2	...	...	2	...
Total Upstate	678	124	92	462	64	7	2	1	...	2	2	5	1	1	...
Albany	58	4	15	39	...	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	42	13	2	27	19	...	1	1	...	...	...	...	...	...	...
Cattaraugus	5	1	...	4	1	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	24	12	...	12	1	...	...	...	...	...	...	...	...	...	...
Chemung	15	2	...	13	13	...	...	...	...	...	...	...	...	...	...
Chenango	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Clinton	12	5	3	4	...	...	...	...	...	...	...	...	...	...	...
Columbia	5	1	...	4	...	...	...	...	...	...	...	...	...	...	...
Cortland	7	...	...	7	...	...	...	...	...	...	...	...	...	...	...
Delaware	24	5	...	19	...	...	...	...	...	...	...	...	...	...	...
Dutchess	17	6	...	11	...	...	...	...	...	...	...	...	...	...	...
Erie	50	12	5	33	1	1	...	...	...	...	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	5	...	...	5	...	...	...	...	...	...	...	...	...	...	...
Fulton	6	2	...	4	8	...	...	...	...	...	...	...	...	...	...
Genesee	12	2	3	7	...	...	...	...	...	...	...	...	...	...	...
Greene	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	5	...	...	5	...	...	...	...	...	...	...	2	...	...	...
Jefferson	10	...	...	10	1	...	...	...	...	...	...	...	...	...	...
Lewis	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Livingston	6	...	...	6	...	...	...	...	...	...	...	...	...	...	...
Madison	2	...	1	1	2	...	...	...	...	...	...	...	...	...	...
Monroe	156	35	57	64	7	5	1	...	...	2	2	1	1	1	...

Due to the reporting of multiple reasons for petitions, the number of reasons exceed the number of petitions reported as initially disposed.

Table A-5 (concluded)
FAMILY COURT
Reasons for Petitious in Proceedings Involving Child Abuse
1985

Region County	Total Reasons (Child Abuse Only)	Reasons for Petitions														
		Child Abuse			Neglected Child											
		Physical Abuse	Risk of Physical Injury	or Offense Against Child	Impairment of Mental, Emotional ter Physical Health	Inadequate Food, Shelquate or Clothing	Indecal Educational Care	Indequate Medior or Surgical Care	Abandonment Par-Desertion	Parental Use of Drugs	Sexual ental Alcoholism	Parental Par-Misconduct	Parental Mental Illness	Parental Fighting	Other
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	3	...	...	3	3	...	...	...	...	...	...	...	...	...	...
Niagara	12	3	...	9	...	...	...	...	...	...	...	...	...	...	...
Oneida	15	2	...	13	1	...	...	...	...	...	...	...	...	...	...
Onondaga	49	5	4	40	...	...	...	...	...	...	...	...	...	...	...
Ontario	18	6	...	12	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Oswego	3	...	...	3	...	...	...	...	...	...	...	...	...	...	...
Otsego	4	1	1	2	...	...	...	...	...	...	...	...	...	...	...
Putnam	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	10	...	...	10	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	8	1	...	7	...	...	...	...	...	...	...	...	...	...	...
Saratoga	9	...	...	9	1	...	...	...	...	...	...	...	...	...	...
Schenectady	1	...	...	1	2	...	...	...	...	...	...	...	...	...	...
Schoharie	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	4	1	...	3	...	...	...	...	...	...	...	...	...	...	...
Suffolk	24	1	1	22	3	1	...	...	...	...	...	1	...	...	...
Sullivan	2	1	...	1	...	...	...	...	...	...	...	...	...	...	...
Tioga	5	...	...	5	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	1	...	...	...	...	...	...	...	1	...	...	...
Ulster	10	...	...	10	1	...	...	...	...	...	...	...	...	...	...
Warren	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...
Washington	3	...	...	3	...	...	...	...	...	...	...	...	...	...	...
Wayne	18	...	...	18	...	...	...	...	...	...	...	...	...	...	...
Westchester	5	1	...	4	...	...	...	...	...	...	...	...	...	...	...
Wyoming	2	2	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...

Table A-6
FAMILY COURT
Petitions Heard In Child Abuse Part*
1985

Region County	Total	Number Disposed Not Indicating Whether Court Has a Child Abuse Part	Courts Having Child Abuse Part			Courts Not HavingChild Abuse Part
			Number of Cases Disposed in Child Abuse Part	Number of Cases Disposed in Other Than Child Abuse Part	Number Not Indicating Where Disposed	Number of Cases Disposed
Total New York State	3,022	8	1,675	183	......	1,156
Total New York City	1,686	6	1,403	167	......	110
New York	137	......	123	12	......	2
Kings	630	6	493	107	......	24
Queens	319	......	300	19	......	......
Bronx	501	......	479	22	......	......
Richmond	99	......	8	7	......	84
Total Upstate	1,336	2	272	16	......	1,046
Albany	58	......	1	......	......	58
Allegany	1	......	......	......	......	1
Broome	60	......	......	......	......	60
Cattaraugus	13	......	......	......	......	13
Cayuga	......	......	......	......	......	......
Chautauqua	36	......	......	......	......	36
Chemung	26	......	......	......	......	26
Chenango	5	......	......	......	......	5
Clinton	22	......	......	......	......	13
Cortland	18	......	......	......	......	8
Delaware	32	1	......	......	......	31
Dutchess	46	......	35	5	......	6
Erie	195	......	184	1	......	10
Essex	3	......	......	......	......	3
Franklin	6	......	......	......	......	6
Fulton	23	......	......	......	......	23
Genesee	15	......	......	......	......	15
Greene	2	......	......	......	......	2
Hamilton	......	......	......	......	......	......
Herkimer	5	......	......	......	......	5
Jefferson	14	......	......	......	......	14
Lewis	2	......	......	......	......	2
Livingston	8	......	......	......	......	8
Madison	2	......	......	......	......	2
Monroe	217	1	1	1	......	214
Montgomery	1	......	......	......	......	1
Nassau	32	......	7	7	......	18
Niagara	16	......	......	......	......	16
Oneida	25	......	......	......	......	25
Onondaga	137	......	3	......	......	134
Ontario	28	......	......	......	......	28
Orange	......	......	......	......	......	......
Orleans	3	......	......	......	......	3
Oswego	4	......	......	......	......	4
Otsego	12	......	......	......	......	12
Putnam	7	......	7	......	......	......
Rensselaer	1	......	......	......	......	1
Rockland	18	......	13	2	......	3
St. Lawrence	14	......	......	......	......	14
Saratoga	26	......	......	......	......	26
Schenectady	3	......	1	......	......	2
Schoharie	......	......	......	......	......	3
Schuyler	......	......	......	......	......	......
Seneca	3	......	......	......	......	3
Steuben	20	......	1	......	......	19
Suffolk	47	......	19	......	......	28
Sullivan	8	......	......	......	......	8
Tioga	7	......	......	......	......	7
Tompkins	4	......	......	......	......	4
Ulster	45	......	......	......	......	45
Warren	4	......	......	......	......	4
Washington	6	......	......	......	......	6
Wayne	27	......	......	......	......	27
Westchester	16	......	1	......	......	15
Wyoming	3	......	......	......	......	3
Yates	4	......	......	......	......	4

*This table includes only cases in which the reason for petition was abuse or both abuse and neglect regardless of court finding.

Table A-7
FAMILY COURT
Age of Boys in Proceedings Involving Child Abuse
1985

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State	1,184	102	89	96	76	84	75	77	84	53	70	54	38	57	46	50	36	37	60
Total New York City	763	61	65	64	48	49	42	47	50	32	41	43	26	29	32	27	27	24	56
New York	68	11	4	4	3	6	7	5	6	3	2	...	1	2	2	2	3	3	4
Kings	287	16	32	26	21	14	15	16	29	11	13	17	7	5	9	10	9	5	32
Queens	137	10	9	13	6	7	7	8	5	5	8	9	8	8	8	5	6	8	7
Bronx	218	19	18	19	16	15	10	16	10	11	15	13	8	12	10	7	8	2	9
Richmond	53	5	2	2	2	7	3	2	...	2	3	4	2	2	3	3	1	6	4
Total Upstate	421	41	24	32	28	35	33	30	34	21	29	11	12	28	14	23	9	13	4
Albany	16	...	...	1	1	1	...	1	2	4	...	1	...	1	...	2	1	1	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Broome	14	2	...	...	1	...	...	2	4	1	2	...	...	2	...	...	...	...	...
Cattaraugus	3	...	...	1	...	...	...	...	1	...	...	1	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	14	1	1	1	...	1	1	2	3	...	...	...	...	3	...	1	...	...	...
Chemung	6	...	...	...	...	1	1	1	...	...	...	...	1	...	1	1	...	...	...
Chenango	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...
Clinton	6	...	1	1	...	1	1	...	...	...	...	...	...	1	1	...	...	...	...
Columbia	2	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	1	...	...
Cortland	4	...	...	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	14	...	1	...	4	2	1	1	1	1	...	...	...	1	...	1	...	...	1
Dutchess	16	2	1	...	3	1	4	2	1	1	...	...	...	...	...	...	1	...	...
Erie	73	9	6	12	6	5	3	5	5	4	5	1	...	4	...	4	...	2	2
Essex	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	6	...	...	1	1	1	...	...	...	1	1	...	...	...	1	...	...	...	...
Genesee	5	3	...	1	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...
Jefferson	6	...	...	1	...	...	1	...	...	...	1	1	...	1	...	1	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	3	...	...	...	...	...	1	...	1	...	...	...	...	...	...	...	1	...	...
Madison	1	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Monroe	78	11	4	1	3	8	5	8	7	4	10	2	3	3	2	5	1	1	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	10	4	1	...	...	...	...	1	1	...	...	...	2	...	...	1	...	...	...
Niagara	3	1	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...
Oneida	4	1	...	...	1	...	...	...	...	1	...	...	...	...	...	1	...	...	...
Onondaga	47	2	4	5	1	3	5	2	2	4	6	1	4	3	3	2	...	...	...
Ontario	4	...	...	...	...	...	...	...	...	...	...	...	...	3	1	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	1	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	1	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Otsego	7	1	1	...	1	1	1	...	...	...	...	...	...	...	...	1	...	1	...
Putnam	2	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...	...	...	...
Rensselaer	1	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Rockland	4	...	...	1	...	...	...	...	1	...	...	...	...	...	...	1	...	...	1
St. Lawrence	4	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	1	1	...
Saratoga	6	...	...	...	...	2	1	...	...	...	...	...	1	1	1	...	...	...	...
Schenectady	1	...	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	2	...	...	...	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...
Steuben	4	1	...	...	...	1	...	...	...	...	...	2	...	...	...	...	...	...	...
Suffolk	11	...	1	...	...	1	1	...	1	...	2	...	1	1	2	...	1	...	...
Sullivan	4	...	...	...	...	...	1	1	...	...	...	...	...	1	...	1	...	...	...
Tioga	2	...	...	1	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	15	...	1	...	2	3	1	1	2	...	...	1	...	...	2	...	...	2	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Washington	4	1	...	...	...	...	...	1	1	...	...	...	...	...	...	...	...	1	...
Wayne	5	...	...	...	...	...	1	...	1	...	...	...	...	...	...	...	1	2	...
Westchester	7	2	...	2	...	2	...	...	...	...	...	...	...	...	...	...	...	1	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	2	...	...	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...

Table A-8
FAMILY COURT
Age of Girls in Proceedings Involving Child Abuse
1985

Region County	Total	Under 1	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16 or Over	Not Known
Total New York State...	1,184	102	89	96	76	84	75	77	84	53	70	54	38	57	46	50	36	37	60
Total New York State...	1,954	121	89	97	107	132	106	103	94	86	100	93	96	103	116	165	143	130	73
Total New York City...	1,014	72	50	67	60	73	61	51	49	47	53	53	43	40	52	74	57	48	64
New York............	2	10	10	8	4	5	6	3	3	5	3	2	4	1	3	3	1	4	7
Kings	364	22	17	30	21	25	22	17	20	22	18	15	12	10	19	18	28	13	35
Queens	201	9	5	10	5	22	14	9	6	5	11	13	12	11	7	27	9	14	12
Bronx	315	30	17	18	25	18	15	18	18	13	17	21	12	16	19	22	15	13	8
Richmond	52	1	1	1	5	3	4	4	2	2	4	2	3	2	4	4	4	4	2
Total Upstate.........	940	49	39	30	47	59	45	52	45	39	47	40	53	63	54	91	86	82	9
Albany	42	1	...	1	4	5	3	2	2	5	...	3	...	1	3	2	3	7	...
Allegany.............	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...
Broome..............	45	5	2	2	...	1	2	3	3	1	6	2	2	1	7	5	3	3	1
Cattaraugus	10	1	1	...	...	1	...	...	...	...	...	1	1	2	2	...	1	...	...
Cayuga..............	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	23	1	...	1	2	3	1	2	...	...	...	1	...	...	4	2	4	2	...
Chemung	21	1	3	2	3	1	2	1	...	...	...	...	2	2	...	2	2	...	...
Chenango............	4	...	...	...	...	...	...	...	1	...	1	...	...	...	...	...	...	2	...
Clinton	16	2	1	...	...	2	...	1	...	...	3	...	3	...	...	2	2	...	...
Columbia	11	1	2	...	...	...	...	...	...	...	...	...	...	3	2	1	2	...	...
Cortland.............	4	...	...	...	...	1	1	1	1	...	...	...	...	...	...	...	...	...	...
Delaware	18	3	...	...	1	1	...	...	1	1	...	1	1	...	1	1	3	4	...
Dutchess.............	30	2	1	...	1	5	...	5	...	...	...	2	2	1	2	2	5	1	1
Erie.................	124	10	7	7	5	10	8	6	5	9	1	6	7	4	5	12	11	10	1
Exxex	2	...	...	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...
Franklin	6	...	...	...	...	...	...	...	...	...	...	...	1	...	1	1	2	1	...
Fulton...............	19	1	...	2	...	1	3	2	...	1	1	...	2	...	3	1	2	...	...
Genesee	10	...	...	...	...	1	1	...	...	1	2	1	1	1	...	...	1	1	...
Greene	2	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	1
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	5	...	...	...	...	...	...	...	...	...	...	...	1	1	1	2	...	...	...
Jefferson.............	9	...	...	...	...	...	...	1	...	...	...	1	1	3	1	1	1	...	...
Lewis	2	...	...	...	...	1	...	...	...	...	...	1	...	...	...	...	...	...	...
Livingston	5	...	...	...	...	...	...	...	...	...	...	...	...	1	1	2	1	...	...
Madision	3	...	...	...	...	...	...	...	...	...	...	2	1	...	...	...	...	...	...
monroe..............	142	7	8	5	13	7	8	7	8	4	9	4	7	10	11	15	11	8	...
Montgomery	1	...	...	...	...	...	...	...	...	...	1	...	...	...	...	...	...	...	...
Nassau	22	1	...	1	1	...	...	...	1	2	2	2	1	2	1	2	...	5	1
Niagara..............	13	1	...	...	...	...	...	...	1	1	1	...	...	1	...	3	...	5	...
Oneida	22	1	...	...	...	1	1	...	...	...	2	5	...	3	...	3	3	3	...
Onondaga............	90	7	10	2	6	6	4	10	6	5	3	1	3	5	4	7	6	5	...
Ontario..............	24	...	...	3	...	2	...	...	...	...	2	2	2	...	1	3	7	2	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Oreleans	2	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	1	...
Oswego..............	3	...	...	...	...	...	1	...	...	...	...	...	...	1	...	...	...	1	...
Otsego	5	...	...	...	1	...	1	...	...	...	...	...	2	...	...	...	...	1	...
Putnam..............	5	...	...	...	...	...	...	...	...	...	...	1	2	2	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	14	...	1	1	...	2	1	...	2	2	...	...	2	...	1	...	1	...	1
St. Lawrence	10	...	1	...	1	1	...	2	2	1	1	1	...	...	...	...	...	...	...
Saratoga.............	21	...	1	1	4	2	1	...	1	...	...	...	...	4	1	3	1	2	...
Schenectady..........	3	...	1	...	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...
Schoharie............	3	...	...	...	...	...	...	...	...	...	...	...	...	...	1	1	1	...	...
Schuyler.............	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	...
Steuben	16	...	...	1	1	...	...	2	...	2	1	1	1	2	...	1	2	2	...
Suffolk..............	41	...	...	1	1	2	3	1	4	1	4	1	...	1	5	6	5	5	1
Sullivan	4	...	...	...	...	...	...	...	...	...	...	...	...	1	...	...	2	...	1
Tioga	5	...	...	...	...	...	...	...	...	...	...	...	...	3	1	...	...	1	...
Tompkins............	4	...	...	...	...	...	...	...	...	2	1	...	...	1	...	...	...	...	...
Ulster	31	2	...	...	1	...	2	2	1	...	3	...	3	6	2	3	2	3	1
Warren..............	4	...	...	...	...	1	...	...	...	1	...	...	...	...	...	2	...	...	...
Washington	2	...	...	...	1	...	...	...	...	...	...	...	...	...	...	...	...	1	...
Wayne	22	...	...	...	...	...	1	2	1	...	3	1	5	...	2	4	...	3	...
Westchester	9	1	...	...	1	1	...	1	3	...	...	...	...	...	...	...	...	2	...
Wyoming.............	3	1	...	...	...	...	...	...	...	...	...	...	...	...	...	...	2	...	...
Yates................	2	...	...	...	...	...	1	...	...	...	...	...	...	...	...	1	...	...	...

Table A-9 (partial)
FAMILY COURT
Type of Petitioner in Proceedings Involving Child Abuse
1985

Region County	Total	Respondents Parent	Respondents Child	Respondents Spouse or Former Spouse	Other Members of Respondents Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized private Agency	School (on Courts Motion)	Hospital (on Courts Motion)	Private Medical Doctor Doctor (on Courts Motion)
Total New York State	3,138	3	3	2	2	32	2	8	2,926	21	124	1	...	...
Total New York City	1,777	3	...	1	1	25	...	8	1,594	20	114	1	...	...
New York	150	1	...	...	...	18	...	1	127	...	3	...	...	...
Kings	651	...	...	...	1	2	...	3	534	13	96	...	...	...
Queens	338	1	...	1	...	4	...	1	307	1	15	...	...	...
Bronx	533	1	...	...	...	1	...	3	525	3	...	...	...	...
Richmond	105	...	...	...	...	...	...	...	101	3	...	1	...	...
Total Upstate	1,361	...	3	1	1	7	2	...	1,332	1	10	...	...	...
Albany	58	...	...	...	...	...	...	...	56	...	...	...	...	...
Allegany	1	...	...	...	...	...	...	...	1	...	...	...	...	...
Broome	63	...	...	...	...	...	...	...	63	...	...	...	...	...
Cattaraugus	13	...	...	...	...	...	...	...	13	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	37	...	...	...	...	...	...	...	37	...	...	...	...	...
Chemung	27	...	...	...	...	...	...	...	27	...	...	...	...	...
Chenango	5	...	...	...	...	...	...	...	5	...	...	...	...	...
Clinton	22	...	...	...	...	...	...	...	22	...	...	...	...	...
Columbia	13	...	...	...	...	...	...	...	12	...	1	...	...	...
Cortland	8	...	...	1	...	...	...	...	7	...	...	...	...	...
Delaware	32	...	...	...	...	...	1	...	31	...	...	...	...	...
Dutchess	46	...	...	...	...	...	...	...	46	...	...	...	...	...
Erie	197	...	...	...	...	...	...	...	197	...	...	...	...	...
Essex	3	...	...	...	...	...	...	...	3	...	...	...	...	...
Franklin	6	...	...	...	...	1	...	...	5	...	...	...	...	...
Fulton	25	...	...	...	...	...	...	...	25	...	...	...	...	...
Genesee	15	...	...	...	...	...	...	...	15	...	...	...	...	...
Greene	2	...	...	...	...	...	...	...	2	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	6	...	...	...	...	...	...	...	6	...	...	...	...	...
Jefferson	15	...	...	...	...	...	...	...	14	1	...	...	...	...
Lewis	2	...	...	...	...	...	...	...	2	...	...	...	...	...
Livingston	8	...	...	...	...	...	...	...	8	...	...	...	...	...
Madison	4	...	...	...	...	...	...	...	4	...	...	...	...	...
Monroe	220	...	...	...	...	...	1	...	215	...	...	...	...	...
Montgomery	1	...	...	...	...	...	...	...	1	...	...	...	...	...
Nassau	32	...	...	...	...	...	...	...	32	...	...	...	...	...

Table A-9 (concluded)
FAMILY COURT
Type of Petitioner in Proceedings Involving Child Abuse
1985

Region County	Total	Respondents Parent	Respondents Child	Respondents Spouse or Former Spouse	Other Members of Respondents Family or Household	Corporation Counsel/ County Attorney	Assistant District Attorney	Police or Peace Officer	Public Social Services Agency	Public Health Agency	Authorized private Agency	School (on Courts Motion)	Hospital (on Courts Motion)	Private Medical Doctor Doctor (on Courts Motion)
Niagara	16	...	...	...	...	2	...	...	13	...	1	...	...	...
Oneida	26	...	...	...	...	...	...	...	26	...	...	...	...	...
Onondaga	137	...	3	...	...	...	...	...	134	...	...	...	...	...
Ontario	28	...	...	...	...	...	...	...	26	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	3	...	...	...	...	...	...	...	3	...	...	...	...	...
Oswego	4	...	...	...	...	...	...	...	4	...	...	...	...	...
Otsego	12	...	...	...	...	...	...	...	12	...	...	...	...	...
Putnam	7	...	...	...	...	...	...	...	7	...	...	...	...	...
Rensselaer	1	...	...	...	...	...	...	...	1	...	...	...	...	...
Rockland	18	...	...	...	1	...	...	...	17	...	...	...	...	...
St. Lawrence	14	...	...	...	...	...	...	...	14	...	...	...	...	...
Saratoga	27	...	...	...	...	...	...	...	27	...	...	...	...	...
Schenectady	4	...	...	...	...	...	...	...	4	...	...	...	...	...
Schoharie	3	...	...	...	...	...	...	...	3	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	3	...	...	...	...	...	...	...	3	...	...	...	...	...
Steuben	20	...	...	...	...	...	...	...	20	...	...	...	...	...
Suffolk	52	...	...	...	...	...	...	...	52	...	...	...	...	...
Sullivan	6	...	...	...	...	...	...	...	8	...	...	...	...	...
Tioga	7	...	...	...	...	...	...	...	7	...	...	...	...	...
Tompkins	4	...	...	...	...	...	...	...	4	...	...	...	...	...
Ulster	46	...	...	...	...	1	...	...	37	...	8	...	...	...
Warren	4	...	...	...	...	...	...	...	4	...	...	...	...	...
Washington	6	...	...	...	...	...	...	...	6	...	...	...	...	...
Wayne	27	...	...	...	...	...	...	...	27	...	...	...	...	...
Westchester	16	...	...	...	...	3	...	...	13	...	...	...	...	...
Wyoming	3	...	...	...	...	...	...	...	4	...	...	...	...	...
Yates	4	...	...	...	...	...	...	...	4	...	...	...	...	...

Table A-10
FAMILY COURT
Temporary Removals In Proceedings Involving Child Abuse
1985

Region County	Total*	No Temporary Removal	Temporary Removal		Length of Removal After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 Days Or more
Total New York State	3,138	1,289	396	1,818	55	47	31	48	388	663	545	40	1
Total New York City	1,777	506	63	1,259	21	15	9	15	233	502	458	16	...
New York	150	18	2	131	6	1	...	4	27	73	20	...	...
Kings	651	66	4	585	10	1	...	11	96	176	284	7	...
Queens	338	255	2	83	...	...	1	...	30	40	8	4	...
Bronx	533	131	52	401	4	5	5	...	71	191	120	5	...
Richmond	105	36	3	59	1	8	3	...	9	22	26	...	...
Total Upstate	1,361	783	333	549	34	32	22	33	155	161	87	24	1
Albany	58	36	19	22	...	4	...	1	4	13	...	...	...
Allegany	1	...	...	1	...	...	...	...	...	1	...	...	...
Broome	63	41	1	22	1	...	2	1	6	12	...	...	...
Cattaraugus	13	6	6	7	...	...	...	...	...	5	...	2	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	37	24	...	13	...	...	...	...	6	4	3	...	...
Chemung	27	9	12	18	3	3	2	...	6	3	...	1	...
Chenango	5	4	...	1	...	...	...	...	1	...	...	...	...
Clinton	22	14	7	8	3	...	...	...	1	1	3	...	...
Columbia	13	4	9	7	...	...	...	2	2	2	1	...	...
Cortland	8	3	3	5	...	...	...	...	3	2	...	...	...
Delaware	32	19	8	10	...	...	1	...	2	3	4	...	...
Dutchess	46	22	12	24	4	1	...	3	14	2	...	...	...
Erie	197	90	5	107	8	5	1	5	29	28	24	7	...
Essex	3	3	...	...	...	...	...	...	...	...	...	...	...
Franklin	6	1	...	5	...	...	1	...	4	...	...	...	...
Fulton	25	3	22	12	...	3	...	6	3	...	...	...	...
Genesee	15	13	1	2	...	...	...	...	1	...	1	...	...
Greene	2	1	...	1	...	...	...	...	1	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	6	...	3	6	...	...	...	...	...	...	3	3	...
Jefferson	15	4	2	11	...	...	...	1	...	5	5	...	...
Lewis	2	2	...	...	...	...	...	...	...	...	...	...	...
Livingston	8	7	...	1	...	...	...	...	1	...	...	...	...
Madison	4	3	1	1	...	...	...	1	...	...	...	...	...
Monroe	220	141	72	79	...	3	4	4	27	35	5	...	...
Montgomery	1	...	1	1	...	...	...	1	...	...	...	...	...
Nassau	32	21	9	11	...	1	...	1	1	3	3	2	...
Niagara	16	15	...	1	...	...	...	...	1	...	...	...	...
Oneida	26	19	5	4	...	...	2	...	...	1	1	...	...
Onondaga	137	64	58	71	5	6	1	3	19	16	18	3	...
Ontario	28	27	...	1	...	...	1	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	3	3	...	...	...	...	...	...	...	...	...	...	...
Oswego	4	4	...	...	...	...	...	...	...	...	...	...	...
Otsego	12	3	9	9	...	...	...	...	4	5	...	...	...
Putnam	7	7	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	1	1	...	...	...	...	1	...	...	...	...
Rockland	18	10	2	8	...	...	2	2	2	1	...	1	...
St. Lawrence	14	2	10	12	...	...	1	...	3	2	3	3	...
Saratoga	27	17	6	10	...	...	...	...	4	6	...	...	...
Schenectady	4	2	2	2	2	...	...	...	...	...	...	...	...
Schoharie	3	1	2	2	...	...	...	...	1	1	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	3	2	1	1	...	...	...	...	1	...	...	...	...
Steuben	20	10	10	10	6	...	...	1	...	3	...	...	...
Suffolk	52	42	8	8	1	...	...	...	3	2	1	1	...
Sullivan	8	3	2	4	...	...	...	1	2	1	...	...	...
Tioga	7	2	2	4	...	...	...	...	1	2	1	...	...
Tompkins	4	3	1	1	...	1	...	...	...	...	...	...	...
Ulster	46	35	8	10	1	2	...	...	...	1	6	...	...
Warren	4	2	...	2	...	...	1	...	...	1	...	...	...
Washington	5	6	...	...	...	...	...	...	...	...	...	...	...
Wayne	27	24	...	3	...	...	...	...	...	...	3	...	...
Westchester	16	8	7	5	...	2	...	...	...	...	2	1	...
Wyoming	3	...	3	2	...	1	...	...	1	...	...	...	...
Yates	4	1	3	3	...	...	3	...	...	...	...	...	...

*Figures in colums 2,3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 365 such proceedings statewide.

Tabe A-11
FAMILY COURT
Length of Time Between Filing Petition and Fact-Finding Hearing In Proceedings Involving Child Abuse
1985

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without IFH
Total New York State	3,138	454	147	106	106	942	714	277	20	2	370
Total New York City	1,777	67	50	56	49	624	465	189	10	1	266
New York	150	4	3	12	8	82	26	5	...	...	10
Kings	651	34	27	23	15	122	198	112	1	1	118
Queens	338	13	3	13	13	175	63	9	5	...	44
Bronx	533	14	17	8	12	222	142	46	4	...	68
Richmond	105	2	...	...	1	23	36	17	...	...	26
Total Upstate	1,361	387	97	50	57	318	249	88	10	1	104
Albany	58	6	1	...	2	4	11	...	...	...	34
Allegany	1	1	...	...	...	...	...	...	...	...	...
Broome	63	10	11	5	6	17	14	...	...	...	...
Cattaraugus	13	4	4	...	1	3	1	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	37	22	4	2	4	5	...	...	...	...	...
Chemung	27	...	...	...	...	16	10	1	...	...	...
Chenango	5	...	...	1	2	2	...	...	...	...	...
Clinton	22	3	...	...	...	4	14	...	...	...	1
Columbia	13	...	...	2	3	4	3	1	...	...	...
Cortland	8	...	1	2	...	3	2	...	...	...	...
Delaware	32	19	4	...	...	3	2	...	...	...	4
Dutchess	46	17	11	1	2	8	4	3	...	...	...
Erie	197	191	2	...	1	3	...	...	...	...	...
Essex	3	...	...	3	...	...	...	...	...	...	...
Franklin	6	5	...	...	...	...	1	...	...	...	...
Fulton	25	...	4	4	2	8	3	...	...	...	4
Genesee	15	...	3	1	1	3	6	1	...	...	...
Greene	2	1	1	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	6	6	...	...	...	...	...	...	...	...	...
Jefferson	15	9	3	...	...	3	...	...	...	...	...
Lewis	2	1	...	...	...	1	...	...	...	...	...
Livingston	8	2	1	2	...	3	...	...	...	...	...
Madison	4	1	...	2	...	...	1	...	...	...	...
Monroe	220	1	1	...	1	92	63	21	...	...	41
Montgomery	1	1	...	...	...	...	...	...	...	...	...
Nassau	32	11	1	2	5	11	2	...	...	...	...
Niagara	16	1	1	3	1	1	4	5	...	...	...
Oneida	26	11	...	...	...	8	6	1	...	...	...
Onondaga	137	8	6	1	5	62	35	16	4	...	...
Ontario	28	7	...	3	1	2	12	3	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...
Orleans	3	...	...	...	...	...	1	2	...	...	...
Oswego	4	...	1	...	...	3	...	...	...	...	...
Otsego	12	...	...	2	...	10	...	...	...	...	...
Putnam	7	3	4	...	...	...	...	...	...	...	...
Rensselaer	1	...	1	...	...	...	...	...	...	...	...
Rockland	18	2	...	...	3	8	4	1	...	...	...
St. Lawrence	14	...	...	1	...	2	6	2	3	...	...
Saratoga	27	3	...	1	3	6	8	1	...	...	5
Schenectady	4	1	...	...	...	1	...	2	...	...	...
Schoharie	3	3	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	3	...	2	...	...	1	...	...	...	...	...
Steuben	20	6	3	1	...	2	4	1	...	...	3
Suffolk	52	10	2	1	1	9	14	9	2	1	3
Sullivan	8	2	1	1	2	...	1	...	1	...	...
Tioga	7	5	1	...	...	1	...	...	...	...	...
Tompkins	4	1	1	1	1	...	...	...	...	...	...
Ulster	46	5	9	1	8	2	7	5	...	...	9
Warren	4	3	1	...	...	...	...	...	...	...	...
Washington	6	1	2	...	2	1	...	...	...	...	...
Wayne	27	1	2	3	...	3	6	12	...	...	...
Westchester	16	1	7	3	...	...	4	1	...	...	...
Wyoming	3	2	1	...	...	...	...	...	...	...	...
Yates	4	...	...	1	...	3	...	...	...	...	...

Table A-12
FAMILY COURT
Number of Adjournments Between Filing Petition and Fact-Finding Hearing In Proceedings Involving Child Abuse*
1985

Region County	Number of Adjournments											
	Total	**None**	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**Over 9**
Total New York State	2,767	496	292	384	409	352	335	164	90	97	36	112
Total New York City	1,511	31	83	258	309	253	213	109	71	74	23	87
New York	140	7	...	24	36	28	14	16	7	2	1	3
Kings	533	7	40	108	80	95	83	38	25	25	12	20
Queens	294	3	16	62	91	61	30	13	7	10	1	...
Bronx	465	12	27	56	80	53	76	37	32	29	9	54
Richmond	79	2	...	8	20	16	10	5	...	8	...	10
Total Upstate	1,256	465	209	125	100	99	122	55	19	23	13	25
Albany	24	5	5	3	7	4	...	...	...	...	...	...
Allegany	1	1	...	...	...	...	...	...	...	...	...	...
Broome	63	43	9	6	2	3	...	...	...	...	...	...
Cattaraugus	13	6	3	3	...	1	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	37	25	11	1	...	...	...	...	...	...	...	...
Chemung	27	1	3	5	5	3	1	8	...	...	1	...
Chenango	5	5	...	...	...	...	...	...	...	...	...	...
Clinton	21	17	1	3	...	...	...	...	...	...	...	...
Columbia	13	8	3	2	...	...	...	...	...	...	...	...
Cortland	6	...	1	7	...	...	...	...	...	...	...	...
Delaware	28	25	3	...	...	...	...	...	...	...	...	...
Dutchess	46	4	29	2	...	5	3	...	1	1	...	1
Erie	196	196	...	...	...	...	...	...	...	...	...	...
Essex	3	...	3	...	...	...	...	...	...	...	...	...
Franklin	6	6	...	...	...	...	...	...	...	...	...	...
Fulton	21	4	12	2	3	...	...	...	...	...	...	...
Genesee	15	1	...	3	2	5	4	...	...	...	...	...
Greene	2	2	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	6	2	...	...	...	3	...	1	...	...	...	...
Jefferson	15	7	5	...	...	3	...	...	...	...	...	...
Lewis	2	1	...	1	...	...	...	...	...	...	...	...
Livingston	8	1	3	3	...	1	...	...	...	...	...	...
Madison	4	2	1	...	...	...	...	...	...	1	...	...
Monroe	179	6	3	3	19	19	60	24	11	11	11	12
Montgomery	1	...	...	1	...	...	...	...	...	...	...	...
Nassau	32	14	3	4	2	2	2	3	...	...	...	2
Niagara	16	8	3	4	...	...	...	...	...	...	...	1
Oneida	26	5	3	4	6	6	2	...	...	...	...	...
Onondaga	137	5	16	23	28	25	21	7	6	2	...	1
Ontario	28	4	12	4	3	...	4	...	...	...	...	1
Orange	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	3	...	...	...	...	1	2	...	...	...	...	...
Oswego	4	...	4	...	...	...	...	...	...	...	...	...
Otsego	12	5	3	2	2	...	...	...	...	...	...	...
Putnam	7	2	5	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	1	...	...	...	...	...	...	...	...	...
Rockland	18	1	5	9	1	...	...	...	...	...	...	...
St. Lawrence	14	...	1	2	2	6	3	...	...	...	...	...
Saratoga	22	4	7	2	2	2	3	1	...	1	...	...
Schenectady	4	...	1	...	...	...	1	...	...	2	...	...
Schoharie	3	...	...	2	1	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	3	...	3	...	...	...	...	...	...	...	...	...
Steuben	17	10	2	1	2	2	...	...	...	...	...	...
Steuben	17	10	2	1	2	2	...	...	...	...	...	...
Suffolk	49	10	13	7	3	4	3	6	1	...	...	2
Sullivan	8	2	3	3	...	...	...	...	...	...	...	...
Tioga	7	...	6	1	...	...	...	...	...	...	...	...
Tompkins	4	1	3	...	...	...	...	...	...	...	...	...
Ulster	37	12	8	1	9	2	2	2	...	...	...	1
Warren	4	...	...	3	1	...	...	...	...	...	...	...
Washington	6	3	3	...	...	...	...	...	...	...	...	...
Wayne	27	2	...	5	...	1	11	3	...	4	1	...
Westchester	16	6	8	1	...	1	...	...	...	...	...	...
Wyoming	3	2	1	...	...	...	...	...	...	...	..	...
Yates	4	1	...	3	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table A-13 (partial)
FAMILY COURT
Dispositions of Proceedings Involving Child Abuse
1985

Region County	Total	Withdrawn	Dismissed	Judgment Susp-Ended	Released to Parent or Other Person	Released to Parent or Other Person Under Social Services Department Supervision	Released to Parent or Other Person Under Private Agency Supervision	Probation	Order or Protection	Transferred to a Court With Criminal Jurisdiction
Total New York State	3,138	174	470	16	130	547	18	3	584	10
Total New York City	1,777	115	206	4	90	276	13	...		
New York	150	16	9	...	2	38	...	...	4	...
Kings	651	52	68	3	14	79	3	...	97	...
Queens	338	32	36	1	67	82	9	...	34	1
Bronx	533	2	73	...	3	73	...	...	114	...
Richmond	105	13	20		4	4	1	...	27	...
Total Upstate	1,361	59	264	12	40	271	5	3	308	9
Albany	58	3	28	3	1	2	...	...	...	2
Allegany	1	...	1	...	...	...	...	...	...	...
Broome	63	1	2	...	3	20	1	...	13	...
Cattaraugus	13	2	1	...	3	3	...	...	1	...
Cayuga	...	...	...	...	...	...	...	...	...	...
Chautauqua	37	1	4	...	...	13	...	...	...	...
Chemung	27	...	...	...	...	23	...	...	...	...
Chenango	5	...	...	...	...	3	...	...	...	1
Clinton	22	...	7	...	2	5	...	...	...	...
Columbia	13	1	...	...	...	4	...	...	...	3
Cortland	8	...	1	...	...	...	...	...	2	...
Delaware	32	...	3	2	1	3	...	...	8	...
Dutchess	46	2	10	...	3	5	...	...	3	...
Erie	197	5	60	...	3	10	...	...	67	...
Essex	3	...	...	...	3	...	...	...	...	...
Franklin	6	...	...	...	...	...	...	...	...	...
Fulton	25	4	...	...	...	1	...	...	...	...
Genesee	15	...	1	...	...	...	...	...	11	...
Greene	2	...	1	...	...	1	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...
Herkimer	6	...	...	...	...	...	3	...	...	...
Jefferson	15	...	1	...	...	2	...	...	5	...
Lewis	2	...	...	...	...	...	...	...	2	...
Livingston	8	...	...	...	...	...	...	...	3	...
Madison	4	...	...	...	...	2	...	...	...	...
Monroe	220	2	42	...	10	110	...	...	13	2
Montgomery	1	...	1	...	...	...	...	...	...	...
Nassau	32	1	9	...	...	12	...	...	8	...
Niagara	16	...	1	...	1	3	...	...	1	...
Oneida	26	1	5	...	...	2	...	...	10	...
Onondaga	137	1	28	...	1	9	...	...	60	...
Ontario	28	...	1	...	2	4	...	...	19	...
Orange	...	...	...	...	...	...	...	...	...	...
Orleans	3	...	...	...	...	...	...	1	2	...
Oswego	4	...	...	...	...	2	...	...	1	...
Otsego	12	...	2	1	...	1	...	...	...	...
Putnam	7	1	...	...	...	...	...	...	4	...
Rensselaer	1	...	...	...	...	1	...	...	...	...
Rockland	18	...	3	...	...	3	...	...	11	...
St. Lawrence	14	3	...	...	...	5	...	...	1	...
Saratoga	27	4	12	2	...	...	...	1	6	...
Schenectady	4	...	...	...	...	...	...	...	...	...
Schoharie	3	1	...	...	...	1	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...
Seneca	3	...	...	...	2	1	...	...	...	...
Steuben	20	6	9	2	...	...	...	...	2	...
Suffolk	52	14	8	...	4	6	1	...	16	...
Sullivan	8	...	...	1	...	1	...	...	1	...
Tioga	7	...	...	...	...	1	...	...	4	...
Tompkins	4	...	2	1	...	...	...	...	...	...
Ulster	46	3	13	...	...	2	...	...	7	...
Warren	4	2	...	...	...	1	...	...	...	...
Washington	6	1	1	...	1	...	...	...	2	...
Wayne	27	...	2	...	...	1	...	1	23	...
Westchester	16	...	2	...	...	8	...	...	1	...
Wyoming	3	...	...	...	...	...	...	...	...	1
Yates	4	...	3	...	...	...	...	...	1	...

Table A-13 (concluded)
FAMILY COURT
Dispositions of Proceedings Involving Child Abuse
1985

Region County	Transferred to Family Court in Another County	Consolidated With Another Child Protective Proceeding	Consolidated With Family Offense Proceeding	Consolidated With Support Proceeding	Removal of Child From Home and Placement With relative	Removal of Child From Home and Place ment With Non relative	Removal of Child From Home and Placement With Public Social Services Department or Officer	Removal of Child From Home and Placement With Private Institution	Removal of Child From Home and Placement With Other Authorized Agency	Other
Total New York State	7	31	...	...	34	2	1,043	...	...	69
Total New York City	...	2	...	...	19	1	742	...	...	32
New York	...	...	...	...	...	...	77	...	...	4
Kings	...	1	...	...	15	...	297	...	...	22
Queens	...	...	...	...	3	...	71	...	...	2
Bronx	...	...	...	...	1	...	266	...	...	1
Richmond	...	1	...	...	...	1	31	...	...	3
Total Upstate	7	29	...	...	15	1	301	...	...	37
Albany	1	...	...	...	...	...	18	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	19	...	...	4
Cattaraugus	...	...	...	...	...	...	3	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...
Chautauqua	2	...	...	...	1	...	14	...	...	2
Chemung	...	...	...	...	...	...	4	...	...	...
Chenango	...	...	...	...	...	...	1	...	...	...
Clinton	...	...	...	...	...	...	8	...	...	...
Columbia	...	...	...	...	1	...	4	...	...	...
Cortland	...	...	...	...	...	...	5	...	...	...
Delaware	...	4	...	...	1	...	10	...	...	...
Dutchess	2	...	...	...	...	...	15	...	...	6
Erie	...	1	...	...	...	...	49	...	...	2
Essex	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	1	...	5	...	...	...
Fulton	...	...	...	...	...	...	20	...	...	...
Genesee	...	...	...	...	...	...	3	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	3	...	...	...
Jefferson	...	...	...	...	...	...	7	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	4	...	1	...	...	...
Madison	2	...	...	...	...	...	...	...	...	...
Monroe	...	...	...	...	4	...	34	...	...	3
Montgomery	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	2	...	...	...	...	...
Niagara	...	...	...	...	...	...	7	...	...	3
Oneida	...	...	...	...	...	...	8	...	...	...
Onondaga	...	17	...	...	...	...	21	...	...	...
Ontario	...	...	...	...	...	...	2	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	1
Otsego	...	...	...	...	...	...	8	...	...	...
Putnam	...	2	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	1	...	...	...
St. Lawrence	...	3	...	...	...	...	2	...	...	...
Saratoga	...	...	...	...	...	...	2	...	...	...
Schenectady	...	...	...	...	...	...	2	...	...	2
Schoharie	...	...	...	...	...	...	1	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	1	...	...	...
Suffolk	...	...	...	...	...	...	...	...	...	3
Sullivan	...	...	...	...	1	1	2	...	...	1
Tioga	...	...	...	...	...	...	2	...	...	...
Tompkins	...	...	...	...	...	...	1	...	...	...
Ulster	...	1	...	...	...	...	10	...	...	10
Warren	...	...	...	...	...	...	1	...	...	...
Washington	...	...	...	...	...	...	1	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...
Westchester	...	1	...	...	...	...	4	...	...	...
Wyoming	...	...	...	...	...	...	2	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...

For the purpose of compiling the table, only one disposition per case was considered. If more than one disposition was reported for a case, the one deemed to be most significant was used.

Table A-14
FAMILY COURT
Length of Time Between Fact-Finding Hearing and Dispositional Hearing In Proceedings Involving Child Abuse
1985

Region County	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Number of Cases Without FFH
Total New York State	3,138	919	48	26	57	907	457	236	111	7	370
Total New York City	1,777	414	5	5	11	674	291	84	21	6	266
New York	150	17	...	...	...	82	32	1	8	...	10
Kings	651	111	2	3	3	216	142	45	10	1	118
Queens	338	135	...	...	5	114	30	7	3	...	44
Bronx	533	132	3	1	3	229	68	24	...	5	68
Richmond	105	19	...	1	...	33	19	7	...	...	26
Total Upstate	1,361	505	43	21	46	233	166	152	90	1	104
Albany	58	21	...	...	...	2	1	...	...	...	34
Allegany	1	...	...	...	...	...	1	...	...	...	...
Broome	63	26	2	...	5	19	11	...	...	...	...
Cattaraugus	13	2	...	...	1	3	3	1	3	...	...
Cayuga	...	...	..	...	...	...	...	...	...	...	...
Chautauqua	37	5	...	...	3	12	13	4	...	...	...
Chemung	27	21	...	2	...	3	...	1	...	...	...
Chenango	5	4	...	1	...	...	...	...	...	...	...
Clinton	22	16	...	...	...	4	...	...	1	...	1
Columbia	13	12	...	...	...	...	...	1	...	...	...
Cortland	8	6	...	...	...	2	...	...	...	...	...
Delaware	32	...	3	4	...	9	12	...	...	...	4
Dutchess	46	13	...	...	...	2	9	10	12	...	...
Erie	197	20	8	1	6	32	52	42	35	1	...
Essex	3	...	...	...	...	...	...	...	3	...	...
Franklin	6	1	...	1	...	4	...	...	...	...	...
Fulton	25	20	1	...	...	...	...	...	...	...	4
Genesee	15	4	4	...	...	1	4	2	...	...	...
Greene	2	...	...	...	...	1	1	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	6	...	...	...	...	...	...	3	3	...	...
Jefferson	15	...	1	...	1	6	2	5	...	...	...
Lewis	2	1	...	...	1	...	...	...	...	...	...
Livingston	8	6	1	...	...	...	1	...	...	...	...
Madison	4	...	3	...	...	1	...	...	...	...	...
Monroe	220	94	13	7	8	41	2	11	3	...	41
Montgomery	1	...	...	...	...	...	...	...	1	...	...
Nassau	32	...	...	...	...	5	4	9	14	...	...
Niagara	16	7	...	1	1	4	2	1	...	...	...
Oneida	26	6	...	...	...	11	7	1	1	...	...
Onondaga	137	85	...	...	11	24	7	10	...	...	...
Ontario	28	18	...	1	2	1	...	4	2	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...
Orleans	3	2	...	...	1	...	...	...	...	...	...
Oswego	4	1	...	...	2	1	...	...	...	...	...
Otsego	12	1	...	...	1	7	2	...	1	...	...
Putnam	7	...	1	...	...	1	5	...	...	...	...
Rensselaer	1	...	...	...	...	1	...	...	...	...	...
Rockland	18	10	...	...	...	2	2	2	2	...	...
St. Lawrence	14	12	...	...	...	2	...	...	...	...	...
Saratoga	27	13	...	...	...	4	1	4	...	...	5
Schenectady	4	3	...	1	...	...	...	...	...	...	...
Schoharie	3	...	...	...	...	1	2	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	3	...	...	1	...	2	...	...	...	...	...
Steuben	20	5	...	1	1	1	3	2	4	...	3
Suffolk	52	32	1	...	1	3	2	7	3	...	3
Sullivan	8	1	1	...	1	2	2	1	...	...	...
Tioga	7	1	...	...	...	4	...	2	...	...	...
Tompkins	4	4	...	...	...	...	...	...	...	...	...
Ulster	46	12	2	...	...	8	9	6	...	...	9
Warren	4	...	2	...	...	...	1	1	...	...	...
Washington	6	6	...	...	...	...	...	...	...	...	...
Wayne	27	7	...	...	...	2	2	14	2	...	...
Westchester	16	1	...	...	...	4	3	8	...	...	...
Wyoming	3	2	...	...	...	1	...	...	...	...	...
Yates	4	4	...	...	...	...	...	...	...	...	...

Table A-15
FAMILY COURT
Number of Adjournments Between Fact-Finding Hearing and Dispositional Hearing In Proceedings Involving Child Abuse
1985

Region County	Number of Adjournments											
	Total	None	1	2	3	4	5	6	7	8	9	Over 9
Total New York State	2,768	1,046	745	441	200	112	60	74	33	23	12	22
Total New York City	1,511	446	537	276	111	49	18	36	11	11	4	12
New York	140	19	67	30	9	...	...	9	1	2	...	3
Kings	533	121	223	102	32	23	8	18	6	...	...	...
Queens	294	149	77	40	22	2	...	...	...	...	4	...
Bronx	465	138	150	84	36	18	10	9	4	8	...	8
Richmond	79	19	20	20	12	6	...	...	...	1	...	1
Total Upstate	1,257	600	208	165	89	63	42	38	22	12	8	10
Albany	24	19	3	2	...	...	...	...	...	...	...	...
Allegany	1	1	...	...	...	...	...	...	...	...	...	...
Broome	63	29	5	21	1	3	2	2	...	...	...	...
Cattaraugus	13	6	4	2	1	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	37	3	9	12	11	2	...	...	...	...	...	...
Chemung	27	20	5	1	...	...	...	1	...	...	...	...
Chenango	5	5	...	...	...	...	...	...	...	...	...	...
Clinton	21	21	...	...	...	...	...	...	...	...	...	...
Columbia	13	12	1	...	...	...	...	...	...	...	...	...
Cortland	8	8	...	...	...	...	...	...	...	...	...	...
Delaware	28	18	10	...	...	...	...	...	...	...	...	...
Dutchess	46	14	6	6	13	1	1	2	3	...	...	...
Erie	197	19	27	33	22	34	13	17	12	9	7	4
Essex	3	...	3	...	...	...	...	...	...	...	...	...
Franklin	6	1	5	...	...	...	...	...	...	...	...	...
Fulton	21	19	1	1	...	...	...	...	...	...	...	...
Genesee	15	5	4	1	3	1	...	1	...	...	...	...
Greene	2	1	1	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	6	3	3	...	...	...	...	...	...	...	...	...
Jefferson	15	...	6	...	...	3	1	...	2	...	...	3
Lewis	2	2	...	...	...	...	...	...	...	...	...	...
Livingston	8	8	...	...	...	...	[illegible]	...	...	...	...	...
Madison	4	3	1	...	...	...	...	...	...	...	...	...
Monroe	179	105	29	18	13	2	7	5	...	...	...	...
Montgomery	1	...	...	...	...	...	1	...	...	...	...	...
Nassau	32	2	4	7	4	4	9	1	...	...	...	1
Niagara	16	12	4	...	...	...	...	...	...	...	...	
Oneida	26	5	5	10	3	1	2	...	...	...	...	...
Onondaga	137	96	11	18	10	2	...	...	...	...	...	...
Ontario	28	26	1	...	...	...	...	...	...	1	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	3	1	1	1	...	...	...	...	...	...	...	...
Oswego	4	1	3	...	...	...	...	...	...	...	...	...
Otsego	12	9	2	1	...	...	...	...	...	...	...	...
Putnam	7	1	1	4	...	...	1	...	...	...	...	...
Rensselaer	1	1	...	...	...	...	...	...	...	...	...	...
Rockland	18	10	5	2	...	...	...	...	...	...	...	1
St. Lawrence	14	14	...	...	...	...	...	...	...	...	...	...
Saratoga	22	14	3	2	1	2	...	...	...	...	...	...
Schenectady	4	3	...	...	...	...	1	...	...	...	...	...
Schoharie	3	3	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	3	...	3	...	...	...	...	...	...	...	...	...
Steuben	17	5	7	1	...	...	...	4	...	...	...	...
Suffolk	49	10	11	5	1	6	2	5	5	2	1	1
Sullivan	8	5	2	1	...	...	...	...	...	...	...	...
Tioga	7	2	3	2	...	...	...	...	...	...	...	...
Tompkins	4	3	1	...	...	...	...	...	...	...	...	...
Ulster	37	23	6	3	2	1	2	...	...	...	...	...
Warren	4	4	...	...	...	...	...	...	...	...	...	...
Washington	6	4	2	...	...	...	...	...	...	...	...	...
Wayne	27	13	5	5	4	...	...	...	...	...	...	...
Westchester	16	5	4	6	...	1	...	...	...	...	...	...
Wyoming	3	2	1	...	...	...	...	...	...	...	...	...
Yates	4	4	...	...	...	...	...	...	...	...	...	...

*This table includes only cases in which there was an initial fact-finding hearing.

Table A-16
FAMILY COURT
Detention of Boys In Disposed Persons In Need of Supervision Proceedings
1985

			Detained		Length of Detention After Petition								
Region County	Total*	Not Detained	Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	4,771	3,849	25	910	112	98	77	105	377	118	23	...	...
Total New York City	1,566	1,203	9	358	55	29	18	29	155	53	19	...	...
New York	208	173	3	32	8	5	1	5	8	5	...	...	...
Kings	623	443	3	179	32	14	10	14	76	22	11	...	...
Queens	303	267	...	36	3	2	...	6	18	7	...	...	...
Bronx	382	279	3	102	11	7	7	4	48	18	7	...	...
Richmond	50	41	...	9	1	1	...	...	5	1	1	...	...
Total Upstate	3,205	2,646	16	552	57	69	59	76	222	65	4	...	...
Albany	171	116	...	55	2	8	9	20	15	1	...	...	...
Allegany	7	7	...	...	...	...	...	...	...	...	...	...	...
Broome	80	69	...	11	1	1	3	2	3	1	...	...	...
Cattaraugus	17	17	...	...	...	...	...	...	...	...	...	...	...
Cayuga	4	4	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	60	57	...	3	...	...	...	...	3	...	...	...	...
Chemung	34	21	2	13	...	...	3	2	6	1	1	...	...
Chenango	7	7	...	...	...	...	...	...	...	...	...	...	...
Clinton	24	24	...	...	...	...	...	...	...	...	...	...	...
Columbia	41	40	...	1	...	...	...	...	1	...	...	...	...
Cortland	5	1	...	4	1	2	...	1	...	...	...	...	...
Delaware	16	16	...	...	...	...	...	...	...	...	...	...	...
Dutchess	100	89	...	11	4	5	...	1	1	...	...	...	...
Erie	473	366	...	107	10	4	7	5	51	30	...	...	...
Essex	9	7	...	2	...	...	...	...	2	...	...	...	...
Franklin	20	20	...	...	...	...	...	...	...	...	...	...	...
Fulton	5	5	...	...	...	...	...	...	...	...	...	...	...
Genesee	17	17	...	...	...	...	...	...	...	...	...	...	...
Greene	19	18	...	1	...	...	1	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...	...
Herkimer	15	15	...	...	...	...	...	...	...	...	...	...	...
Jefferson	24	22	...	2	...	...	...	1	1	...	...	...	...
Lewis	3	3	...	...	...	...	...	...	...	...	...	...	...
Livingston	18	17	...	1	...	...	...	...	1	...	...	...	...
Madison	21	19	1	1	...	...	...	1	...	...	...	...	...
Monroe	230	132	...	98	10	18	7	14	39	10	...	...	...
Montgomery	4	4	...	...	...	...	...	...	...	...	...	...	...
Nassau	177	171	1	5	...	2	...	2	1	...	...	...	...
Niagara	66	57	...	9	3	1	1	2	2	...	...	...	...
Oneida	66	65	...	1	...	...	...	...	1	...	...	...	...
Onondaga	244	163	2	80	6	3	3	4	52	11	1	...	...
Ontario	46	42	...	4	1	...	...	...	3	...	...	...	...
Orange	106	106	...	...	...	...	...	...	...	...	...	...	...
Orleans	10	10	...	...	...	...	...	...	...	...	...	...	...
Oswego	12	11	...	1	...	...	...	...	1	...	...	...	...
Otsego	6	6	...	...	...	...	...	...	...	...	...	...	...
Putnam	19	18	1	1	...	...	...	...	1	...	...	...	...
Rensselaer	26	21	...	5	...	2	1	...	2	...	...	...	...
Rockland	45	37	...	8	...	2	2	...	1	3	...	...	...
St. Lawrence	11	11	...	...	...	...	...	...	...	...	...	...	...
Saratoga	58	43	1	14	...	2	6	1	5	...	...	...	...
Schenectady	17	12	...	5	1	1	1	...	2	...	...	...	...
Schoharie	11	8	3	3	...	...	...	3	...	...	...	...	...
Schuyler	25	24	...	1	1	...	...	...	...	...	...	...	...
Seneca	10	5	1	4	1	...	...	...	2	...	1	...	...
Steuben	37	29	...	8	3	...	3	1	1	...	...	...	...
Suffolk	405	362	...	43	5	9	8	11	10	...	...	...	...
Sullivan	15	13	...	2	...	...	...	...	...	...	...	...	...
Tioga	10	8	...	2	...	2	...	...	...	...	...	...	...
Tompkins	13	10	...	3	1	1	...	...	1	...	...	...	...
Ulster	74	73	...	1	...	...	...	...	1	...	...	...	...
Warren	28	24	1	3	2	1	...	...	...	...	...	...	...
Washington	59	55	1	3	2	...	1	...	...	...	...	...	...
Wayne	30	20	1	10	2	2	2	1	3	...	...	...	...
Westchester	139	115	...	24	1	1	1	3	9	8	1	...	...
Wyoming	9	8	...	1	...	...	...	...	1	...	...	...	...
Yates	6	5	1	1	...	...	...	1	...	...	...	...	...

*Figures in columns 2,3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 13 such proceedings statewide.

Table A-17
FAMILY COURT
Detention of Girls In Disposed Persons In Need of Supervision Proceedings
1985

			Detained		Length of Detention After Petition								
Region County	Total*	Not Detained	Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	4,155	3,283	26	858	112	94	73	120	353	91	14	1	...
Total New York City	1,338	980	6	357	53	35	29	56	130	45	8	1	...
New York	228	170	2	57	11	6	10	7	18	5	...	...	...
Kings	488	342	2	146	30	17	10	25	45	18	1	...	...
Queens	249	201	1	48	4	5	4	9	20	3	3	...	...
Bronx	313	221	1	92	7	6	1	12	45	16	4	1	...
Richmond	60	46	...	14	1	1	4	3	2	3	...	...	...
Total Upstate	2,817	2,303	20	501	59	59	44	64	223	46	6	...	...
Albany	135	95	...	40	1	3	4	12	20	...	...	...	...
Allegany	3	3	...	...	...	...	...	...	...	...	...	...	...
Broome	83	69	...	14	2	2	1	5	3	1	...	...	...
Cattaraugus	16	15	...	1	...	...	...	...	1	...	...	...	...
Cayuga	1	1	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	45	45	...	...	...	...	...	...	...	...	...	...	...
Chemung	35	30	...	5	1	...	...	1	2	1	...	...	...
Chenango	2	2	...	...	...	...	...	...	...	...	...	...	...
Clinton	16	16	...	...	...	...	...	...	...	...	...	...	...
Columbia	15	13	...	2	...	1	1	...	...	...	...	...	...
Cortland	7	1	1	6	...	2	1	...	3	...	...	...	...
Delaware	15	15	...	...	...	...	...	...	...	...	...	...	...
Dutchess	76	67	1	8	3	1	...	2	2	...	...	...	...
Erie	425	336	...	89	7	4	6	2	45	25	...	...	...
Essex	8	8	...	...	...	...	...	...	...	...	...	...	...
Franklin	11	10	...	1	...	...	...	...	...	...	...	...	...
Fulton	5	5	...	...	...	...	...	...	...	...	...	...	...
Genesee	16	16	...	...	...	...	...	...	...	...	...	...	...
Greene	17	16	...	1	...	1	...	...	...	...	...	...	...
Hamilton	1	...	1	1	1	...	...	...	...	...	...	...	...
Herkimer	21	21	...	...	...	...	...	...	...	...	...	...	...
Jefferson	15	15	...	...	...	...	...	...	...	...	...	...	...
Lewis	3	3	...	...	...	...	...	...	...	...	...	...	...
Livingston	14	14	...	...	...	...	...	...	...	...	...	...	...
Madison	16	12	1	3	1	2	...	...	...	...	...	...	...
Monroe	240	122	1	117	9	9	10	12	66	10	1	...	...
Montgomery	4	4	...	...	...	...	...	...	...	...	...	...	...
Nassau	170	168	...	2	...	1	...	...	1	...	...	...	...
Niagara	79	63	2	14	4	2	3	2	3	...	...	...	...
Oneida	60	55	1	4	1	2	...	...	1	...	...	...	...
Onondaga	218	155	1	63	7	3	7	3	39	4	...	...	...
Ontario	29	25	...	4	1	...	1	...	2	...	...	...	...
Orange	114	114	...	...	...	...	...	...	...	...	...	...	...
Orleans	5	5	...	...	...	...	...	...	...	...	...	...	...
Oswego	14	14	...	...	...	...	...	...	...	...	...	...	...
Otsego	7	6	...	1	1	...	...	...	...	...	...	...	...
Putnam	18	14	...	4	...	...	...	1	2	...	1	...	...
Rensselaer	30	25	...	5	...	1	...	1	3	...	...	...	...
Rockland	32	22	2	9	...	...	...	2	2	4	1	...	...
St. Lawrence	7	6	1	...	...	...	...	...	...	...	...	...	...
Saratoga	51	38	1	12	1	3	3	2	3	...	...	...	...
Schenectady	13	11	1	1	...	...	...	...	...	...	1	...	...
Schoharie	9	8	...	1	...	...	...	1	...	...	...	...	...
Schuyler	9	7	...	2	1	...	1	...	...	...	...	...	...
Seneca	7	7	...	...	...	...	...	...	...	...	...	...	...
Steuben	33	20	1	13	3	3	1	3	3	...	...	...	...
Suffolk	362	324	...	38	10	7	5	9	7	...	...	...	...
Sullivan	14	14	...	...	...	...	...	...	...	...	...	...	...
Tioga	7	7	...	...	...	...	...	...	...	...	...	...	...
Tompkins	15	11	1	3	...	2	...	1	...	...	...	...	...
Ulster	50	48	...	2	...	1	...	1	...	...	...	...	...
Warren	15	13	...	2	...	...	...	1	1	...	...	...	...
Washington	22	22	...	...	...	...	...	...	...	...	...	...	...
Wayne	54	35	3	18	3	9	...	1	5	...	...	...	...
Westchester	105	93	1	11	...	...	...	1	7	1	2	...	...
Wyoming	12	9	...	3	...	...	...	1	2	...	...	...	...
Yates	4	3	...	1	1	...	...	...	...	...	...	...	...

*Figures in columns 2,3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 12 such proceedings statewide.

Table A-18 (partial)
FAMILY COURT
Disposition of Persons in Need of Supervision Proceedings (Boys Only)
1985

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed At Dispositional Hearing	Dismissed For Failure To Prosecute	Dismissed Without Prejudice	Dismissed in Furthenhance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred To Another County	Discharged To Another Petition	Discharged To Mental Hygiene Institution
Total New York State	3,752	13	...	19	366	433	671	436	738	9	44	...
Total New York City	1,513	6	...	11	284	250	210	229	355	1	1	...
New York	203	2	...	1	26	41	1	41	70	...	...	...
Kings	605	3	...	7	179	69	109	92	89	1	...	...
Queens	290	...	...	1	53	15	80	27	73	...	...	...
Bronx	365	...	...	1	18	123	8	57	107	...	1	...
Richmond	50	1	...	1	8	2	12	12	8	...	...	...
Total Upstate	2,239	7	...	8	84	183	461	207	383	8	43	...
Albany	112	...	...	2	2	5	22	17	11	2	12	...
Allegany	6	...	...	...	...	...	...	...	...	...	...	...
Broome	63	...	...	...	1	1	3	16	6	...	1	...
Cattaraugus	14	...	...	...	1	...	3	...	3	...	...	...
Cayuga	3	...	...	...	...	...	...	3	...	...	...	...
Chautauqua	37	...	...	...	1	4	10	6	1	...	...	...
Chemung	24	...	...	...	...	1	...	...	...	...	7	...
Chenango	6	...	...	...	...	...	1	2	1	...	...	...
Clinton	17	...	...	...	...	...	8	...	5	...	...	...
Columbia	22	...	...	...	...	...	2	...	7	1	5	...
Cortland	4	...	...	...	...	...	...	...	...	...	...	...
Delaware	13	1	...	...	...	3	...	1	1	...	1	...
Dutchess	69	...	...	...	1	2	16	2	17	...	9	...
Erie	310	3	...	...	8	92	113	7	7	...	...	...
Essex	5	...	...	...	...	...	...	...	1	...	1	...
Franklin	15	...	...	...	1	...	2	...	3	...	...	...
Fulton	5	...	...	...	...	...	1	...	...	...	...	...
Genesee	8	...	...	...	...	...	1	...	2	...	...	...
Greene	16	...	...	...	...	...	4	1	2	...	...	...
Hamilton	1	...	...	...	...	...	1	...	...	...	...	...
Herkimer	12	...	...	...	1	1	2	...	6	...	...	...
Jefferson	23	...	...	...	...	...	...	3	2	...	...	...
Lewis	1	...	...	...	...	...	...	...	...	...	...	...
Livingston	15	...	...	...	...	3	3	5	1	...	...	...
Madison	19	...	...	...	3	...	5	...	2	1	...	...
Monroe	144	...	...	...	1	13	21	25	28	...	...	...
Montgomery	1	...	...	...	...	...	1	...	...	...	...	...
Nassau	119	...	...	...	...	3	4	19	26	...	...	...
Niagara	42	...	...	...	3	2	3	2	8	...	1	...
Oneida	44	2	...	1	3	4	...	...	15	...	...	...
Onondaga	193	...	...	...	5	24	41	33	9	...	...	...
Ontario	40	...	...	...	1	1	9	...	8	...	...	...
Orange	75	...	...	...	1	3	20	8	8	...	...	...
Orleans	9	...	...	...	...	...	...	...	2	...	...	...
Oswego	3	...	...	...	...	...	...	...	...	...	...	...
Otsego	6	...	...	...	...	...	...	...	...	...	...	...
Putnam	16	...	...	...	1	...	5	...	6	...	...	...
Rensselaer	16	...	...	...	1	...	8	...	4	...	...	...
Rockland	21	...	...	...	1	...	1	1	4	...	...	...
St. Lawrence	8	1	...	...	...	...	1	...	...	...	...	...
Saratoga	47	...	...	...	...	2	24	2	1	...	...	...
Schenectady	11	...	...	...	1	...	1	...	...	...	...	...
Schoharie	8	...	...	...	...	...	2	...	3	...	...	...
Schuyler	17	...	...	...	3	...	7	2	...	...	...	...
Seneca	8	...	...	...	2	...	...	...	1	...	...	...
Steuben	28	...	...	2	...	...	4	1	9	...	...	...
Suffolk	253	...	...	1	19	10	62	31	101	1	...	...
Sullivan	13	...	...	...	1	1	2	2	1	...	...	...
Tioga	8	...	...	...	1	...	...	...	1	...	...	...
Tompkins	10	...	...	...	...	...	4	...	3	...	...	...
Ulster	66	...	...	1	3	2	9	2	15	...	...	...
Warren	20	...	...	...	...	2	6	2	...	...	...	...
Washington	35	...	...	...	1	...	6	2	2	1	...	...
Wayne	23	...	...	...	...	...	4	7	2	2	1	...
Westchester	125	...	...	1	17	4	16	4	48	...	5	...
Wyoming	7	...	...	...	...	...	3	1	...	...	...	...
Yates	3	...	...	...	...	...	...	...	...	...	...	...

Table A-18 (concluded)
FAMILY COURT
Disposition of Persons in Need of Supervision Proceedings (Boys Only)
1985

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home relative or Suitable Private Person	Comm. of Social Services	Division For Youth Title 2	Division For Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	...	24	84	157	19	642	69	15	...	...	11
Total New York City	...	2	1	9	3	131	14	1	...	...	5
New York	...	1	...	1	...	9	1	...	...	...	1
Kings	...	1	...	...	2	50	1	1	...	...	1
Queens	...	...	...	5	...	29	5	...	...	...	2
Bronx	...	...	1	2	1	38	7	...	...	...	1
Richmond	...	...	...	1	...	5	...	...	...	...	...
Total Upstate	...	22	83	148	16	511	55	14	...	...	6
Albany	...	...	5	...	1	32	1	...	...	...	...
Allegany	...	...	...	...	...	6	...	...	...	...	...
Broome	...	...	...	14	...	20	...	1	...	...	...
Cattaraugus	...	...	...	...	2	5	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	15	...	...	...	...	...
Chemung	...	...	2	2	...	10	1	1	...	...	...
Chenango	...	2	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	1	2	...	1	...	...	...
Columbia	...	...	...	3	...	3	...	1	...	...	...
Cortland	...	...	...	...	...	1	3	...	...	...	...
Delaware	...	2	2	...	...	2	...	...	...	...	...
Dutchess	...	...	...	...	...	20	1	1	...	...	...
Erie	...	...	2	1	1	67	8	...	...	...	1
Essex	...	...	...	...	...	2	1	...	...	...	...
Franklin	...	...	2	...	...	6	1	...	...	...	...
Fulton	...	...	...	1	...	3	...	...	...	...	...
Genesee	...	...	2	1	...	2	...	...	...	...	...
Greene	...	1	...	3	...	4	...	...	...	...	1
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	2	...	...	...	...
Jefferson	...	...	1	12	1	3	...	1	...	...	...
Lewis	...	...	...	...	...	1	...	...	...	...	...
Livingston	...	...	...	...	...	2	1	...	...	...	...
Madison	...	...	3	...	2	3	...	...	...	...	...
Monroe	...	...	9	...	...	46	1	...	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	1	13	36	1	...	13	...	...	...	3
Niagara	...	3	4	1	...	14	...	1	...	...	...
Oneida	...	...	...	...	...	15	4	...	...	...	...
Onondaga	...	...	5	1	...	74	1	...	...	...	...
Ontario	...	2	2	9	...	8	...	...	...	...	...
Orange	...	4	...	9	...	22	...	...	...	...	...
Orleans	...	...	...	1	...	6	...	...	...	...	...
Oswego	...	...	1	...	1	1	...	...	...	...	...
Otsego	...	...	...	3	...	3	...	...	...	...	...
Putnam	...	...	1	1	1	...	...	...	...	...	1
Rensselaer	...	...	...	...	...	2	1	...	...	...	...
Rockland	...	...	...	3	...	11	...	...	...	...	...
St. Lawrence	...	...	...	1	...	5	...	...	...	...	...
Saratoga	...	...	...	2	...	15	1	...	...	...	...
Schenectady	...	...	...	3	...	3	1	2	...	...	...
Schoharie	...	...	...	...	...	3	...	...	...	...	...
Schuyler	...	...	...	...	...	2	3	...	...	...	...
Seneca	...	...	...	...	...	2	...	3	...	...	...
Steuben	...	...	...	4	1	7	...	...	...	...	...
Suffolk	...	1	9	7	...	9	2	...	...	...	...
Sullivan	...	...	...	1	...	3	2	...	...	...	...
Tioga	...	...	1	...	...	4	1	...	...	...	...
Tompkins	...	...	...	...	...	2	1	...	...	...	...
Ulster	...	3	1	13	1	12	2	2	...	...	...
Warren	...	1	1	...	1	5	2	...	...	...	...
Washington	...	1	16	...	1	5	...	...	...	...	...
Wayne	...	...	...	1	1	5	...	...	...	...	...
Westchester	...	1	...	15	...	14	...	...	...	...	...
Wyoming	...	...	...	...	...	3	...	...	...	...	...
Yates	...	...	1	...	...	1	1	...	...	...	...

Table A-19 (partial)
FAMILY COURT
Disposition of Persons in Need of Supervision Proceedings (Girls Only)
1985

Region and County	Total Dispositions	No Adjudication										
		Dismissed For Failure of Proof at Fact Finding Hearing	Other Dismissal at Fact Finding Hearing	Dismissed At Dispositional Hearing	Dismissed For Failure To Prosecute	Dismissed Without Prejudice	Dismissed in Furthenhance of Justice (A.C.D.)	Other Dismissal	Withdrawn	Transferred To Another County	Discharged To Another Petition	Discharged To Mental Hygiene Institution
Total New York State	3,303	16	...	14	340	356	610	370	736	15	20	...
Total New York City	1,279	5	...	5	262	205	188	164	308	2	...	...
New York	220	1	...	1	43	33	10	38	77	1	...	...
Kings	473	3	...	4	152	47	95	63	69	...	...	...
Queens	229	...	...	...	45	15	66	21	47	...	...	...
Bronx	298	...	...	...	14	110	5	32	100	1	...	...
Richmond	59	1	...	...	8	...	12	10	15	...	...	...
Total Upstate	2,024	11	...	9	78	151	422	206	428	13	20	...
Albany	98	...	...	...	1	1	42	11	10	2	4	...
Allegany	2	...	...	...	...	...	...	...	...	...	...	...
Broome	71	...	...	...	2	...	...	22	10	...	...	...
Cattaraugus	13	...	...	...	...	...	2	...	4	...	...	...
Cayuga	1	...	...	...	...	...	...	1	...	...	...	...
Chautauqua	27	...	...	...	...	1	8	5	4	...	...	...
Chemung	29	...	...	...	...	...	1	1	2	...	3	...
Chenango	1	...	...	...	...	...	1	...	...	...	...	...
Clinton	12	...	...	...	...	1	3	...	2	2	...	...
Columbia	9	...	...	...	...	...	...	...	5	...	2	...
Cortland	6	...	...	...	...	...	...	1	...	...	...	...
Delaware	13	1	...	...	1	1	...	1	4	...	...	...
Dutchess	52	...	...	...	3	1	18	2	13	...	4	...
Erie	318	3	...	...	17	90	109	23	7	...	...	...
Essex	8	...	...	...	...	...	...	...	...	...	1	...
Franklin	9	...	...	...	...	...	...	...	3	1	...	...
Fulton	11	...	...	...	...	...	1	1	3	...	...	...
Genesee	10	...	...	...	1	...	4	...	1	...	...	...
Greene	15	...	...	...	1	...	3	1	3	...	...	...
Hamilton	1	...	...	...	...	...	...	...	...	...	...	...
Herkimer	19	2	...	1	1	1	1	...	7	...	...	...
Jefferson	15	...	...	...	...	...	2	1	2	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	12	1	...	...	...	1	5	4	...	...	...	...
Madison	15	...	...	...	...	1	4	...	2	...	...	...
Monroe	154	...	...	...	...	10	14	27	43	...	...	...
Montgomery	2	...	...	...	...	...	...	...	1	...	...	...
Nassau	99	...	...	...	...	...	3	7	24	...	1	...
Niagara	63	...	...	1	7	1	2	2	13	...	...	...
Oneida	37	...	...	1	...	...	...	1	18	1	...	...
Onondaga	159	...	...	...	1	19	39	31	20	2	...	...
Ontario	22	...	...	1	...	...	5	1	7	...	...	...
Orange	71	...	...	...	1	4	18	9	10	...	...	...
Orleans	3	...	...	...	...	...	...	...	...	...	...	...
Oswego	8	...	...	...	...	1	...	3	1	...	...	...
Otsego	7	...	...	...	...	...	...	1	1	1	...	...
Putnam	12	...	...	...	...	...	2	...	8	...	...	...
Rensselaer	23	...	...	...	...	2	12	1	2	...	...	...
Rockland	19	...	...	1	...	...	3	1	2	...	...	...
St. Lawrence	6	1	...	...	...	1	...	1	...	...	...	...
Saratoga	44	...	...	1	1	...	16	2	6	...	...	...
Schenectady	10	...	...	...	...	1	2	2	...	...	...	...
Schoharie	6	...	...	...	...	...	3	...	2	...	...	...
Schuyler	9	...	...	...	...	...	4	1	...	...	...	...
Seneca	5	...	...	...	1	...	...	...	1	...	...	...
Steuben	26	...	...	...	...	1	5	...	6	...	3	...
Suffolk	232	...	...	...	19	9	55	18	110	2	...	...
Sullivan	12	...	...	...	...	1	4	1	...	...	...	...
Tioga	1	...	...	...	...	...	...	...	1	...	...	...
Tompkins	11	1	...	...	2	...	1	5	2	...	...	...
Ulster	44	...	...	2	1	1	6	...	12	...	...	...
Warren	12	...	...	...	...	1	3	1	1	...	...	...
Washington	15	1	...	...	1	...	2	...	2	...	...	...
Wayne	38	1	...	...	1	...	9	10	7	...	...	...
Westchester	94	...	...	1	16	1	8	7	45	1	1	...
Wyoming	11	...	...	...	...	...	2	...	1	1	1	...
Yates	2	...	...	...	...	...	...	...	...	...	...	...

Table A-19 (concluded)
FAMILY COURT
Disposition of Persons in Need of Supervision Proceedings (Girls Only)
1985

Region and County	Adjudication										
					Placement						
	Discharged To Mental Hygiene Institution	Discharged With Warning	Judgment Suspended	Probation Without Placement	Own Home relative or Suitable Private Person	Comm. of Social Services	Division For Youth Title 2	Division For Youth Title 3 (NYSTS)	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	2	13	57	144	19	517	57	12	...	...	5
Total New York City	1	2	2	11	...	114	9	...	...	...	1
New York	...	...	2	1	...	12	...	...	...	...	1
Kings	...	...	...	...	...	40	...	...	...	...	...
Queens	...	...	...	5	...	25	5	...	...	...	...
Bronx	...	1	...	...	...	32	3	...	...	...	...
Richmond	1	1	...	5	...	5	1	...	...	...	...
Total Upstate	1	11	55	133	19	403	48	12	...	...	4
Albany	...	...	5	...	...	20	2	...	...	...	...
Allegany	...	...	...	...	...	2	...	...	...	...	...
Broome	...	...	...	10	1	24	...	2	...	...	...
Cattaraugus	...	...	1	...	4	2	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	9	...	...	...	...	...
Chemung	...	...	5	6	...	5	...	5	...	...	1
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	...	4	...	...	...	...	...
Columbia	...	...	...	...	...	2	...	...	...	...	...
Cortland	...	...	1	...	...	2	2	...	...	...	...
Delaware	...	1	1	...	...	3	...	...	...	...	...
Dutchess	...	...	...	...	...	9	2	...	...	...	...
Erie	...	...	3	1	...	53	11	1	...	...	...
Essex	...	...	...	...	...	7	...	...	...	...	...
Franklin	...	...	1	...	...	3	1	...	...	...	...
Fulton	...	...	...	1	...	5	...	...	...	...	...
Genesee	...	...	...	...	...	4	...	...	...	...	...
Greene	...	...	...	4	...	3	...	...	...	...	...
Hamilton	...	...	...	...	...	1	...	...	...	...	...
Herkimer	...	...	...	...	...	4	2	...	...	...	...
Jefferson	...	...	...	8	...	2	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	1	...	...	...	...	...
Madison	...	...	3	2	3	...	...	...	...	...	...
Monroe	...	...	9	1	1	48	1	...	...	...	...
Montgomery	...	...	...	...	...	1	...	...	...	...	...
Nassau	...	...	5	40	...	1	16	...	...	...	2
Niagara	...	...	2	5	1	29	...	...	...	...	...
Oneida	...	...	...	...	...	15	1	...	...	...	...
Onondaga	...	...	4	1	1	40	1	...	...	...	...
Ontario	...	...	1	2	...	5	...	...	...	...	...
Orange	...	3	...	12	...	14	...	...	...	...	...
Orleans	...	...	...	...	...	3	...	...	...	...	...
Oswego	...	...	1	2	...	...	...	...	...	...	...
Otsego	1	...	...	...	...	3	...	...	...	...	...
Putnam	...	...	...	...	...	2	...	...	...	...	...
Rensselaer	...	...	1	...	1	2	2	...	...	...	...
Rockland	...	...	1	4	...	7	...	...	...	...	...
St. Lawrence	...	...	...	2	...	1	...	...	...	...	...
Saratoga	...	...	...	1	...	15	1	1	...	...	...
Schenectady	...	...	...	3	...	2	...	...	...	...	...
Schoharie	...	...	...	...	...	...	1	...	...	...	...
Schuyler	...	...	...	1	...	...	3	...	...	...	...
Seneca	...	...	1	1	...	1	...	...	...	...	...
Steuben	...	...	...	1	2	8	...	...	...	...	...
Suffolk	...	...	1	8	...	7	1	2	...	...	...
Sullivan	...	...	...	2	...	4	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	2	1	7	...	11	1	...	...	...	...
Warren	...	...	1	1	1	3	...	...	...	...	...
Washington	...	...	6	...	...	2	...	1	...	...	...
Wayne	...	3	1	2	1	3	...	...	...	...	...
Westchester	...	2	...	4	1	6	...	...	...	...	1
Wyoming	...	...	...	...	2	4	...	...	...	...	...
Yates	...	...	...	1	...	1	...	...	...	...	...

Table A-20
FAMILY COURT
Detention of Boys In Disposed Juvenile Delinquency Proceedings (Including Designated Felonies)
1985

Region County	Total*	Not Detained	Detained: Before Petition	Detained: After Petition	Length of Detention After Petition: 1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	9,191	7,149	275	1,969	503	299	220	251	552	109	33	2	...
Total New York City	3,894	2,865	95	1,006	331	107	95	109	262	73	27	2	...
New York	1,065	668	45	381	129	40	31	45	101	24	11	...	...
Kings	1,369	1,053	4	316	138	36	27	25	63	19	7	1	...
Queens	671	591	1	80	17	10	11	6	27	7	2	...	...
Bronx	619	406	42	208	43	17	22	32	66	21	7	...	...
Richmond	170	147	3	21	4	4	4	1	5	2	...	1	...
Total Upstate	5,297	4,284	180	963	172	192	125	142	290	36	6	...	...
Albany	373	260	...	113	6	23	21	34	27	2	...	...	...
Allegany	2	2	...	...	...	...	...	...	...	...	...	...	...
Broome	186	166	1	19	2	3	3	3	7	...	1	...	...
Cattaraugus	42	35	4	6	1	3	1	...	1	...	...	...	...
Cayuga	19	19	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	117	112	3	5	...	...	...	...	4	1	...	...	...
Chemung	197	153	9	37	3	2	3	15	13	1	...	...	...
Chenango	5	5	...	...	...	...	...	...	...	...	...	...	...
Clinton	19	14	4	3	...	...	1	...	2	...	...	...	...
Columbia	38	30	3	7	...	1	3	1	2	...	...	...	...
Cortland	5	1	...	4	...	...	...	1	3	...	...	...	...
Delaware	11	10	...	1	1	...	...	...	...	...	...	...	...
Dutchess	146	127	2	19	5	5	1	2	5	1	...	...	...
Erie	316	253	...	63	13	4	4	9	27	6	...	...	...
Essex	16	14	...	2	1	...	...	1	...	...	...	...	...
Franklin	23	22	...	1	...	...	1	...	...	...	...	...	...
Fulton	16	13	3	...	...	...	...	...	...	...	...	...	...
Genesee	30	26	2	3	2	1	...	...	...	...	...	...	...
Greene	4	1	3	2	2	...	...	...	...	...	...	...	...
Hamilton	4	1	3	2	2	...	...	...	...	...	...	...	...
Herkimer	16	16	...	...	...	...	...	...	...	...	...	...	...
Jefferson	91	87	...	4	1	...	...	...	3	...	...	...	...
Lewis	2	1	...	1	...	...	1	...	...	...	...	...	...
Livingston	26	18	6	7	3	1	...	...	2	1	...	...	...
Madison	10	6	2	4	2	1	...	...	1	...	...	...	...
Monroe	434	282	1	151	34	28	23	20	42	3	1	...	...
Montgomery	4	4	...	...	...	...	...	...	...	...	...	...	...
Nassau	595	480	2	115	34	30	9	10	12	...	...	...	...
Niagara	89	78	4	10	4	4	1	1	...	...	...	...	...
Oneida	76	62	4	14	2	1	...	2	7	2	...	...	...
Onondaga	431	256	81	159	26	25	18	15	68	6	1	...	...
Ontario	53	44	4	8	...	8	...	...	...	...	...	...	...
Orange	166	157	4	7	...	5	1	1	...	...	...	...	...
Orleans	10	8	...	2	...	...	2	...	...	...	...	...	...
Oswego	12	11	...	1	1	...	...	...	1	...	...	...	...
Otsego	16	13	1	3	...	1	1	...	1	...	...	...	...
Putnam	37	32	3	4	...	1	...	...	3	...	...	...	...
Rensselaer	43	40	...	3	...	1	1	...	1	...	...	...	...
Rockland	58	42	...	16	2	2	2	4	3	3	...	...	...
St. Lawrence	15	15	...	...	...	...	...	...	...	...	...	...	...
Saratoga	178	167	...	11	...	6	5	...	...	...	...	...	...
Schenectady	27	22	2	4	...	3	...	...	1	...	...	...	...
Schoharie	11	9	1	2	...	1	1	...	...	...	...	...	...
Schuyler	5	5	...	...	...	...	...	...	...	...	...	...	...
Seneca	13	9	...	4	...	1	...	3	...	...	...	...	...
Steuben	54	43	4	9	1	1	1	2	4	...	...	...	...
Suffolk	669	601	3	68	14	9	14	11	15	5	...	...	...
Sullivan	24	22	...	2	...	1	...	1	...	...	...	...	...
Tioga	19	14	...	5	1	2	...	...	2	...	...	...	...
Tompkins	20	19	1	1	1	...	...	...	1	...	...	...	...
Ulster	111	99	4	12	1	7	...	...	3	1	...	...	...
Warren	38	29	2	9	1	3	...	2	1	1	1	...	...
Washington	50	45	1	5	1	2	1	1	...	...	...	...	...
Wayne	93	71	13	16	2	5	2	1	6	...	...	...	...
Westchester	187	169	2	18	2	1	4	2	4	3	2	...	...
Wyoming	22	21	1	...	...	...	...	...	1	...	...	...	...
Yates	3	3	...	...	...	...	...	...	...	...	...	...	...

*Figures in columns 2,3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 202 such proceedings statewide.

Table A-21
FAMILY COURT
Detention of Girls In Disposed Juvenile Delinquency Proceedings (Including Designated Felonies)
1985

Region County	Total*	Not Detained	Detained		Length of Detention After Petition								
			Before Petition	After Petition	1-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366 Days Or More	Over 730 Days
Total New York State	1,240	994	33	237	66	38	26	23	70	10	4	...	...
Total New York City	405	325	11	78	30	18	6	6	9	6	3	...	...
New York	112	86	6	24	10	3	...	3	6	2	...	...	...
Kings	169	137	2	32	12	9	4	1	3	2	1	...	...
Queens	66	58	1	8	2	4	1	...	...	1	...	...	...
Bronx	35	25	2	10	6	...	...	1	...	1	2	...	...
Richmond	23	19	...	4	...	2	1	1	...	...	1	...	...
Total Upstate	835	669	22	159	36	20	20	17	61	4	1	...	...
Albany	50	43	...	7	...	5	1	...	1	...	...	...	...
Allegany	1	1	...	...	...	...	...	...	...	...	...	...	...
Broome	22	19	...	3	...	...	...	1	2	...	...	...	...
Cattaraugus	4	4	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	17	15	...	2	...	...	1	1	...	...	...	...	...
Chemung	51	47	...	4	...	...	...	1	3	...	...	...	...
Chenango	1	1	...	...	...	...	...	...	...	...	...	...	...
Clinton	2	2	...	...	...	...	...	...	...	...	...	...	...
Columbia	3	3	...	...	...	...	...	...	...	...	...	...	...
Cortland	1	...	...	1	...	1	...	...	...	...	...	...	...
Delaware	2	2	...	...	...	...	...	...	...	...	...	...	...
Dutchess	37	32	1	5	2	...	...	1	2	...	...	...	...
Erie	48	41	...	7	1	...	...	1	5	...	...	...	...
Essex	2	2	...	...	...	...	...	...	...	...	...	...	...
Franklin	4	4	...	...	...	...	...	...	...	...	...	...	...
Fulton	1	...	...	1	...	...	...	...	1	...	...	...	...
Genesee	1	1	...	...	...	...	...	...	...	...	...	...	...
Greene	7	7	...	...	...	...	...	...	...	...	...	...	...
Hamilton	1	1	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	1	...	...	...	...	...	...	...	...	...	...	...
Jefferson	11	11	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	2	2	...	...	...	...	...	...	...	...	...	...	...
Madison	2	2	...	...	...	...	...	...	...	...	...	...	...
Monroe	68	38	1	30	5	4	8	3	8	1	1	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	102	73	1	28	10	2	3	1	12	...	...	...	...
Niagara	20	15	2	4	1	1	...	...	1	1	...	...	...
Oneida	24	21	1	2	...	1	...	...	1	...	...	...	...
Onondaga	63	37	9	24	3	2	2	5	11	1	...	...	...
Ontario	7	5	...	2	...	...	1	1	...	...	...	...	...
Orange	25	23	1	2	...	...	1	...	1	...	...	...	...
Orleans	1	1	...	...	...	...	...	...	...	...	...	...	...
Oswego	4	4	...	...	...	...	...	...	...	...	...	...	...
Otsego	5	4	...	1	...	...	1	...	...	...	...	...	...
Putnam	5	4	...	1	...	1	...	...	...	...	...	...	...
Rensselaer	9	9	...	...	...	...	...	...	...	...	...	...	...
Rockland	10	8	...	2	...	1	1	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	22	20	...	2	2	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	2	...	2	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	1	1	...	...	...	...	...	...	...	...	...	...	...
Steuben	4	4	...	...	...	...	...	...	...	...	...	...	...
Suffolk	121	96	2	25	9	1	1	2	12	...	...	...	...
Sullivan	1	...	...	1	1	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	1	1	...	...	...	...	...	...	...	...
Ulster	13	13	...	...	...	...	...	...	...	...	...	...	...
Warren	4	4	...	...	...	...	...	...	...	...	...	...	...
Washington	8	8	...	...	...	...	...	...	...	...	...	...	...
Wayne	19	17	1	2	1	...	...	...	1	...	...	...	...
Westchester	23	21	...	2	...	1	...	...	...	1	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...	...
Yates	2	2	...	...	...	...	...	...	...	...	...	...	...

*Figures in columns 2,3, and 4 exceed total because some proceedings are included in both columns 3 and 4. There were 24 such proceedings statewide.

Table A-22
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Crimes Alleged In Petitions
1985

	Total New York State	Total New York City	Total Upstate
Homicide:	15	9	6
Kidnapping	23	21	2
Rape	45	22	23
Other Sex Offenses	257	79	178
Robbery	989	839	150
Assault or Related Offenses	1319	644	675
Crim. Sale Controlled Subst.	124	108	16
Crim. Poss. Controlled Subst.	205	175	30
Other Drug Offenses	31	26	5
Crim. Poss. Weapon	501	369	132
Burglary or Related Offenses	1975	639	1336
Criminal Trespass	684	387	297
Arson	107	30	77
Grand Larceny — Auto	290	198	92
Grand Larceny	1712	1158	554
Petit Larceny	2020	472	1548
Crim. Poss. Stolen Property	1831	1325	506
Other Theft	325	208	117
Criminal Mischief	1859	932	927
Gambling	10	10	......
Prostitution	30	6	24
Other Crimes	1242	479	763
Total	15594	8136	7458

Table A-23
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Crimes Alleged In Petitions
1985

	Total New York State	Total New York City	Total Upstate
Homicide:	2	......	2
Kidnapping	3	2	1
Rape	9	4	5
Other Sex Offenses	13	5	8
Robbery	91	87	4
Assault or Related Offenses	63	63	......
Crim. Sale Controlled Subst.	1	1	......
Crim. Poss. Controlled Subst.	1	1	......
Other Drug Offenses	......	......	......
Crim. Poss. Weapon	22	21	1
Burglary or Related Offenses	12	9	3
Criminal Trespass	2	2	......
Arson	2	1	1
Grand Larceny — Auto	3	3	......
Grand Larceny	20	18	2
Petit Larceny	7	5	2
Crim. Poss. Stolen Property	30	30	......
Other Theft	3	3	......
Criminal Mischief	7	3	4
Gambling	......	......	......
Prostitution	......	......	......
Other Crimes	14	11	3
Total	305	269	36

Table A-24
FAMILY COURT
Designatd Felony Petitions Disposed: Crimes Alleged In Petitions
1985

	Total New York State	Total New York City	Total Upstate
Murder 1	3	3	......
Murder 2	3	3	......
Kidnapping 1	......	......	......
Arson 1	3	2	1
Manslaughter 1	3	1	2
Rape 1	49	23	26
Sodomy 1	80	32	48
Kidnapping 2	3	2	1
Arson 2	12	3	9
Robbery 1	182	154	28
Assault 1	63	48	15
Attempted Murder 1	......	......	......
Attempted Murder 2	4	4	......
Attempted Kidnapping 1	......	......	......
Other Crimes	138	88	50
Total	543	363	180

Table A-25
FAMILY COURT
Removed Designated Felony Petitions Disposed::
Crimes Alleged In Petitions
1985

	Total New York State	Total New York City	Total Upstate
Murder 1	......	......	......
Murder 2	......	......	......
Kidnapping 1	......	......	......
Arson 1	......	......	......
Manslaughter 1	......	......	......
Rape 1	8	......	8
Sodomy 1	4	1	3
Kidnapping 2	......	......	......
Arson 2	1	......	1
Robbery 1	13	6	7
Assault 1	8	3	5
Attempted Murder 1	1	1	......
Attempted Murder 2	3	3	......
Attempted Kidnapping 1	......	......	......
Other Crimes	10	5	5
Total	48	19	29

Table A-26
FAMILY COURT
Designated Felony Petitions Disposed
Cases Heard In Designated Felony Parts
1985

	Dispositions				
		Courts Having Designated Felony Parts			
	Total	In Designated Felony Part	In Other Than Designated Felony Part	Coursts Not Having Designated Felony Parts	Part-Type Not Reported
Total New York State	407	33	4	88	282
Total New York City	252	17	2	...	233
New York	18	13	2	...	3
Kings	87	1	...	...	86
Queens	47	1	...	...	46
Bronx	96	2	...	...	94
Richmond	4	...	...	...	4
Total Upstate	155	16	2	88	49
Albany	16	...	...	16	...
Allegany	...	...	...	...	...
Broome	2	...	...	...	2
Cattaraugus	2	...	...	2	...
Cayuga	...	...	...	...	...
Chautauqua	1	...	...	1	...
Chemung	9	...	...	9	...
Chenango	...	...	...	...	...
Clinton	3	...	...	3	...
Columbia	...	...	...	...	...
Cortland	...	...	...	...	...
Delaware	2	...	...	2	...
Dutchess	10	5	2	...	...
Erie	5	5	2	...	...
Essex	...	...	...	...	...
Franklin	1	...	...	1	...
Fulton	2	...	...	2	...
Genesee	1	...	...	...	1
Greene	...	...	...	...	...
Hamilton	2	...	...	2	...
Herkimer	...	...	...	...	...
Jefferson	2	...	...	...	2
Lewis	...	...	...	...	...
Livingston	...	...	...	...	...
Madison	...	...	...	...	...
Monroe	13	...	...	8	5
Montgomery	...	...	...	...	...
Nassau	17	...	...	5	12
Niagara	2	...	...	1	1
Oneida	1	...	...	1	...
Onondaga	19	...	...	16	3
Ontario	2	...	...	1	1
Orange	8	...	...	...	8
Orleans	...	...	...	...	...
Oswego	...	...	...	...	...
Otsego	2	...	...	2	...
Putman	...	...	...	...	...
Rensselaer	1	...	...	1	...
Rockland	3	...	...	3	...
St. Lawrence	1	...	...	1	...
Saratoga	4	...	...	2	2
Schenectady	...	...	...	...	...
Schoharie	...	...	...	...	...
Schuyler	...	...	...	...	...
Seneca	...	...	...	...	...
Steuben	1	...	...	1	...
Suffolk	10	3	...	3	4
Sullivan	1	...	...	1	...
Tioga	...	...	...	...	...
Tompkins	1	...	...	1	...
Ulster	1	...	...	...	1
Warren	...	...	...	...	4
Washington	4	...	...	...	4
Wayne	3	...	...	3	...
Westchester	3	...	...	...	3
Wyoming	...	...	...	...	...
Yates	...	...	...	...	...

Table A-27
FAMILY COURT
Removed Designated Felony Petitions Disposed: Cases Heard In Designated Felony Parts
1985

	Dispositions				
		Courts Having Designated Felony Parts			
	Total	In Designated Felony Part	In Other Than Designated Felony Part	Coursts Not Having Designated Felony Parts	Part-Type Not Reported
Total New York State	38	21	1	15	1
Total New York City	15	14	1	...	...
New York	10	9	1	...	...
Kings	...	...	...	...	...
Queens	5	5	...	...	...
Bronx	...	...	...	...	...
Richmond	...	...	...	...	...
Total Upstate	23	7	...	15	1
Albany	1	...	...	1	...
Allegany	...	...	...	...	...
Broome	...	...	...	...	...
Cattaraugus	...	...	...	...	...
Cayuga	...	...	...	...	...
Chautauqua	...	...	...	...	...
Chemung	...	...	...	...	...
Chenango	...	...	...	...	...
Clinton	1	...	...	1	...
Columbia	...	...	...	...	...
Cortland	...	...	...	...	...
Delaware	...	...	...	...	...
Dutchess	1	1	...	...	...
Erie	6	6	...	...	...
Essex	...	...	...	...	...
Franklin	...	...	...	...	...
Fulton	...	...	...	...	...
Genesee	...	...	...	...	...
Greene	...	...	...	...	...
Hamilton	...	...	...	...	...
Herkimer	1	...	...	1	...
Jefferson	...	...	...	...	...
Lewis	...	...	...	...	...
Livingston	...	...	...	...	...
Madison	...	...	...	...	...
Monroe	8	...	...	8	...
Montgomery	...	...	...	...	...
Nassau	1	...	...	1	...
Niagara	...	...	...	...	...
Oneida	...	...	...	...	...
Onondaga	...	...	...	...	...
Ontario	...	...	...	...	...
Orange	...	...	...	...	...
Orleans	...	...	...	...	...
Oswego	...	...	...	...	...
Otsego	...	...	...	...	...
Putnam	...	...	...	...	...
Rensselaer	...	...	...	...	...
Rockland	...	...	...	...	...
St. Lawrence	...	...	...	...	...
Saratoga	...	...	...	...	...
Schenectady	...	...	...	...	...
Schoharie	...	...	...	...	...
Schuyler	...	...	...	...	...
Seneca	...	...	...	...	...
Steuben	...	...	...	...	...
Suffolk	4	...	...	3	1
Sullivan	...	...	...	...	...
Tioga	...	...	...	...	...
Tompkins	...	...	...	...	...
Ulster	...	...	...	...	...
Warren	...	...	...	...	...
Washington	...	...	...	...	...
Wayne	...	...	...	...	...
Westchester	...	...	...	...	...
Wyoming	...	...	...	...	...
Yates	...	...	...	...	...

Table A-28
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Age of Victims By Crime Alleged
1985

	Total	11 or Younger	12-20	21-40	41-65	Over 65	Not Reported/ No Victims
Total New York State							
Homicide	19	5	1	...	...	3	10
Kidnapping	25	3	2	...	...	...	20
Rape	45	19	4	...	1	...	21
Other Sex Offenses	253	89	27	1	...	...	136
Robbery	1,033	63	37	11	4	4	914
Assault or Related Offenses	1,311	217	132	51	13	3	895
Crim. Sale Controlled Subst.	118	...	...	...	...	...	118
Crim. Poss. Controlled Subst.	139	1	...	1	...	...	137
Other Drug Offenses	21	1	...	...	1	...	19
Crim. Poss. Weapon	255	9	4	4	...	...	238
Burglary or Relt'd. Offenses	2,073	144	12	84	43	11	1,779
Criminal Trespass	415	20	...	8	11	2	374
Arson	89	6	1	3	2	...	77
Grand Larceny — Auto	226	8	...	7	2	...	209
Grand Larceny	776	57	17	25	12	2	663
Petit. Larceny	1,461	85	19	37	20	7	1,293
Crim. Poss. Stolen Property	497	45	6	24	8	4	410
Other Theft	162	12	...	6	7	...	137
Criminal Mischief	944	60	4	33	17	4	826
Gambling	...	...	...	...	...	...	...
Prostitution	30	1	...	...	...	1	28
Other Crimes	735	64	14	33	6	4	614
Total	10,627	909	280	328	147	45	8,918
Total New York City							
Homicide	9	1	...	...	...	...	8
Kidnapping	23	3	2	...	...	...	18
Rape	18	3	1	...	...	...	14
Other Sex Offenses	57	4	1	...	...	...	52
Robbery	845	18	10	7	1	...	809
Assault or Related Offenses	463	7	6	...	...	...	450
Crim. Sale Controlled Subst.	102	...	...	...	...	...	102
Crim. Poss. Controlled Subst.	112	...	...	...	...	...	112
Other Drug Offenses	16	...	...	...	...	...	16
Crim. Poss. Weapon	145	...	...	...	...	...	145
Burglary or Relt'd. Offenses	603	1	...	...	...	...	602
Criminal Trespass	144	...	...	...	...	...	144
Arson	18	...	...	...	...	...	18
Grand Larceny — Auto	146	1	...	1	...	...	144
Grand Larceny	436	6	5	1	...	...	424
Petit. Larceny	192	...	...	...	...	...	192
Crim. Poss. Stolen Property	111	1	...	...	...	...	110
Other Theft	62	...	...	...	...	...	62
Criminal Mischief	277	...	...	...	...	...	277
Gambling	...	...	...	...	...	...	...
Prostitution	5	...	...	...	...	...	5
Other Crimes	157	1	...	...	...	...	156
Total	3,941	46	25	9	1	...	3,860
Total Upstate							
Homicide	10	4	1	...	...	3	2
Kidnapping	2	...	...	...	...	...	2
Rape	27	16	3	...	1	...	7
Other Sex Offenses	196	85	26	1	...	...	84
Robbery	188	45	27	4	3	4	105
Assault or Related Offenses	848	210	126	51	13	3	445
Crim. Sale Controlled Subst.	16	...	...	...	...	...	16
Crim. Poss. Controlled Subst.	27	1	...	1	...	...	25
Other Drug Offenses	5	1	...	...	1	...	3
Crim. Poss. Weapon	110	9	4	4	...	...	9
Burglary or Relt'd. Offenses	1,470	143	12	84	43	11	1,177
Criminal Trespass	271	20	...	8	10	2	230
Arson	71	6	1	3	2	...	59
Grand Larceny — Auto	80	7	...	6	2	...	65
Grand Larceny	340	91	12	24	12	2	239
Petit. Larceny	1,269	85	19	37	20	7	1,103
Crim. Poss. Stolen Property	386	44	6	24	8	4	300
Other Theft	100	12	...	6	...	...	75
Criminal Mischief	667	60	4	33	1	4	547
Gambling	...	...	...	...	...	...	...
Prostitution	25	1	...	...	...	1	2
Other Crimes	578	63	14	33	6	4	45
Total	6,686	863	259	319	146	59	5,032

Table A-29
FAMILY COURT
Removed Juvenile Delinquency (Excluding Designated Felonies) Disposed: Age of Victims By Crime Alleged
1985

	Total	11 or Younger	12-20	21-40	41-65	Over 65	Not Reported/ No Victims
Total New York State							
Homicide	3	2	1	...	...	...	...
Kidnapping	5	3	2	...	...	...	...
Rape	6	2	...	...	...	...	4
Other Sex Offenses	10	2	1	...	...	...	7
robbery	106	15	11	3	...	1	76
Assault or Related Offenses	17	2	2	...	...	...	13
Crim. Sale Controlled Subst.	1	...	...	...	...	...	1
Crim. Poss. Controlled Subst.	...	...	...	...	...	...	...
Other Drug Offenses	...	...	...	...	...	...	...
Crim. Poss. Weapon	2	...	...	...	...	...	2
Burglary or Relt'd. Offenses	6	...	...	...	...	...	6
Criminal Trespass	...	...	...	...	...	...	
Arson	2	...	...	...	...	...	2
Grand Larceny — Auto	1	...	...	...	...	...	1
Grand Larceny	5	...	...	...	...	...	5
Petit Larceny	7	2	1	...	1	...	3
Crim. Poss. Stolen Property	1	...	...	...	...	...	1
Other Theft	...	...	...	...	...	...	...
Criminal Mischief	5	1	...	...	...	...	4
Gambling	...	...	...	...	...	...	...
Prostitution	...	...	...	...	...	...	...
Other Crimes	4	...	...	...	...	...	4
Total	181	29	18	3	1	1	129
Total New York City							
Homicide	...	...	...	...	...	...	
Kidnapping	4	2	2	...	...	...	...
Rape	2	...	...	...	...	...	2
Other Sex Offenses	3	1	1	...	...	...	1
Robbery	101	14	10	3	...	1	73
Assault or Related Offenses	17	2	2	...	...	...	13
Crim. Sale Controlled Subst.	1	...	...	...	...	...	1
Crim. Poss. Controlled Subst.	...	...	...	...	...	...	...
Other Drug Offenses	...	...	...	...	...	...	...
Crim. Poss. Weapon	1	...	...	...	...	...	1
Burglary or Relt'd. Offenses	3	...	...	...	...	...	3
Criminal Trespass	...	...	...	...	...	...	...
Arson	1	...	...	...	...	...	1
Grand Larceny — Auto	1	...	...	...	...	...	1
Grand Larceny	4	...	...	...	...	...	4
Petit Larceny	4	1	1	...	...	...	2
Crim. Poss. Stolen Property	1	...	...	...	...	...	1
Other Theft	...	...	...	...	...	...	...
Criminal Mischief	1	...	...	...	...	...	1
Gambling	...	...	...	...	...	...	...
Prostitution	...	...	...	...	...	...	...
Other Crimes	2	...	...	...	...	...	2
Total	146	20	16	3	...	1	106
Total Upstate							
Homicide	3	2	1	...	...	...	...
Kidnapping	1	1	...	...	...	...	...
Rape	4	2	...	...	...	...	...
Other Sex Offenses	7	1	...	...	...	...	6
Robbery	5	1	1	...	...	...	3
Assault or Related Offenses	...	...	...	...	...	...	...
Crim. Sale Controled Subst.	...	...	...	...	...	...	...
Crim. Poss. Controlled Subst.	...	...	...	...	...	...	...
Other Drug Offenses	...	...	...	...	...	...	...
Crim. Poss. Weapon	1	...	...	...	...	...	1
Burglary or Relt'd Offenses	3	...	...	...	...	...	3
Criminal Trespass	...	...	...	...	...	...	...
Arson	1	...	...	...	...	...	1
Grand Larceny — Auto	...	...	...	...	...	...	...
Grand Larceny	1	...	...	...	...	...	1
Petit Larceny	3	1	...	...	1	...	1
Crim. Poss. Stolen Property	...	...	...	...	...	...	...
Other Theft	...	...	...	...	...	...	...
Criminal Mischief	4	1	...	...	...	...	3
Gambling	...	...	...	...	...	...	...
Prostitution	...	...	...	...	...	...	...
Other Crimes	2	...	...	...	...	...	2
Total	35	9	2	...	1	...	23

Table A-30
FAMILY COURT
Designated Felony Petitions Disposed: Age of Victims By Crime Alleged
1985

	Total	11 or Younger	12-20	21-40	41-65	Over 65	Not Reported/ No Victims
Total New York State							
Murder 1	3	...	...	...	...	...	3
Murder 2	3	...	...	...	...	...	3
Kidnapping 1	...	...	...	...	...	...	...
Arson 1	5	2	1	...	1	...	1
Manslaughter 1	5	2	...	...	2	...	1
Rape 1	53	17	4	...	...	...	32
Sodomy 1	70	26	2	...	...	...	42
Kidnapping 2	2	...	...	...	...	...	2
Arson 2	13	1	...	1	...	...	11
Robbery 1	184	8	5	1	1	...	169
Assault 1	41	6	1	1	2	1	30
Attempted Murder 1	...	...	...	...	...	...	...
Attempted Murder 2	2	...	...	...	...	...	2
Attempted Kidnapping 1	...	...	...	...	...	...	...
Other Crimes	54	7	3	3	1	...	40
Total	435	69	16	6	7	1	336
Total New York City							
Murder 1	3	...	...	...	...	...	3
Murder 2	3	...	...	...	...	...	3
Kidnapping 1	...	...	...	...	...	...	...
Arson 1	3	1	1	...	...	...	1
Manslaughter 1	1	...	...	...	...	...	1
Rape 1	23	2	...	...	...	...	21
Sodomy	23	...	...	...	...	...	23
Kidnapping 2	1	...	...	...	...	...	1
Arson 2	3	...	...	...	...	...	3
Robbery 1	150	...	...	...	...	...	150
Assault 1	25	1	1	...	...	...	23
Attempted Murder 1	...	...	...	...	...	...	...
Attempted Murder 2	2	...	...	...	...	...	2
Attempted Kidnapping 1	...	...	...	...	...	...	...
Other Crimes	16	...	...	...	...	...	16
Total	253	4	2	...	...	...	247
Total Upstate							
Murder 1	...	...	...	...	...	...	...
Murder 2	...	...	...	...	...	...	...
Kidnapping 1	...	...	...	...	...	...	...
Arson 1	2	1	...	...	1	...	...
Manslaughter 1	4	2	...	...	2	...	...
Rape 1	30	15	4	...	...	...	11
Sodomy 1	47	26	2	...	...	...	19
Kidnapping 2	1	...	...	...	...	...	1
Arson 2	10	1	...	1	...	...	8
Robbery 1	34	8	5	1	1	...	19
Assault 1	16	5	...	1	2	1	7
Attempted Murder 1	...	...	...	...	...	...	...
Attempted Murder 2	...	...	...	...	...	...	...
Attempted Kidnapping	...	...	...	...	...	...	...
Other Crimes	38	7	3	3	1	...	24
Total	182	65	14	6	7	1	89

Table A-31
FAMILY COURT
Removed Designated Felony Petitions Disposed: Age of Victims By Crime Alleged
1985

	Total	11 or Younger	12-20	21-40	41-65	Over 65	Not Reported/ No Victims
Total New York State							
Murder 1	...	...	...	...	...	...	...
Murder 2	...	...	...	...	...	...	...
Kidnapping 1	...	...	...	...	...	...	...
Arson 1	...	...	...	...	...	...	...
Manslaughter 1	...	...	...	...	...	...	...
Rape 1	13	7	5	...	...	...	1
Sodomy 1	4	2	...	...	...	...	2
Kidnapping 2	...	...	...	...	...	...	...
Arson 2	1	...	...	...	...	...	1
Robbery 1	17	4	2	1	1	...	9
Assault 1	9	3	2	...	1	...	3
Attempted Murder 1	1	...	...	...	...	...	1
Attempted Murder 2	2	...	...	...	...	...	2
Attempted Kidnapping 1	...	...	...	...	...	...	...
Other Crimes	4	1	...	1	...	...	2
Total	51	17	9	2	2	...	21
Total New York City							
Murder 1	...	...	...	...	...	...	...
Murder 2	...	...	...	...	...	...	...
Kidnapping 1	...	...	...	...	...	...	...
Arson 1	...	...	...	...	...	...	...
Manslaughter 1	...	...	...	...	...	...	...
Rape 1	...	...	...	...	...	...	...
Sodomy 1	1	1	...	...	...	...	...
Kidnapping 2	...	...	...	...	...	...	...
Arson 2	...	...	...	...	...	...	...
Robbery 1	8	2	1	1	...	...	4
Assault 1	2	...	...	...	...	...	2
Attempted Murder 1	1	...	...	...	...	...	1
Attempted Murder 2	2	...	...	...	...	...	2
Attempted Kidnapping 1	...	...	...	...	...	...	...
Other Crimes	4	1	...	1	...	...	2
Total	18	4	1	2	...	...	11
Total Upstate							
Murder 1	...	...	...	...	...	...	...
Murder 2	...	...	...	...	...	...	...
Kidnapping 1	...	...	...	...	...	...	...
Arson 1	...	...	...	...	...	...	...
Manslaughter 1	...	...	...	...	...	...	...
Rape 1	13	7	5	...	...	...	1
Sodomy 1	3	1	...	...	...	...	2
Kidnapping 2	...	...	...	...	...	...	...
Arson 2	1	...	...	...	...	...	1
Robbery 1	9	2	1	...	1	...	5
Assault 1	7	3	2	...	1	...	1
Attempted Murder 1	...	...	...	...	...	...	...
Attempted Murder 2	...	...	...	...	...	...	...
Attempted Kidnapping 1	...	...	...	...	...	...	...
Other Crimes	...	...	...	...	...	...	...
Total	33	13	8	...	2	...	10

Tabe A-32
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Length of Time Between Filing of Petition and Fact-finding Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	9,828	1,175	1,047	544	602	2,728	1,153	405	127	92	1,955
Total New York City	3,906	347	118	82	106	940	681	216	58	62	1,296
New York	1,122	163	50	32	56	393	227	54	41	54	52
Kings	1,377	67	20	21	21	186	281	117	10	2	652
Queens	674	53	12	11	11	220	88	21	1	1	256
Bronx	544	45	30	10	10	106	69	15	6	4	249
Richmond	189	19	6	8	8	35	16	9	...	1	87
Total Upstate	5,922	826	929	462	496	1,788	472	189	69	30	659
Albany	406	42	18	27	47	140	33	4	...	...	95
Allegany	2	...	...	...	...	...	2	...	...	...	...
Broome	206	26	56	18	13	53	30	...	...	...	...
Cattaraugus	44	6	2	3	4	23	3	2	1	...	...
Cayuga	19	1	1	14	...	3	...	...	...	...	...
Chautauqua	133	7	6	12	22	60	23	2	1	...	...
Chemung	239	18	22	28	77	78	8	3	2	2	1
Chenaygo	6	...	...	3	...	1	2	...	...	...	...
Clinton	16	2	3	5	1	4	1	...	...	...	...
Columbia	41	3	7	8	3	14	2	3	1	...	...
Cortland	6	...	1	...	...	4	1	...	...	...	...
Delaware	11	2	1	...	4	2	2	...	...	...	...
Dutchess	171	38	76	6	6	32	8	1	2	2	...
Erie	347	47	50	18	13	155	37	12	5	8	2
Essex	18	1	2	1	1	4	...	1	...	...	8
Franklin	26	4	14	...	1	4	2	1	...	...	...
Fulton	15	1	1	3	...	2	...	1	...	...	7
Genesee	30	2	...	4	4	15	4	...	...	...	1
Greene	31	9	4	1	9	7	...	1	...	...	...
Hamilton	3	1	...	1	...	...	1	...	...	...	...
Herkimer	16	...	2	4	1	3	1	3	1	...	1
Jefferson	100	23	27	19	16	13	...	1	...	1	...
Lewis	2	...	...	...	1	1	...	...	...	...	...
Livingston	28	5	4	3	2	7	7	...	...	...	...
Madison	11	2	2	...	2	4	1	...	...	...	...
Monroe	468	39	44	32	27	101	16	1	3	1	208
Montgomery	4	...	...	1	1	2	...	...	...	...	...
Nassau	679	246	47	15	34	140	43	21	6	1	126
Niagara	106	14	23	10	7	35	5	2	1	...	9
Oneida	99	14	18	2	10	42	9	...	...	...	4
Onondaga	474	37	71	40	32	210	48	25	9	2	...
Ontario	58	8	15	12	6	12	5	...	...	...	...
Orange	183	9	36	15	6	74	26	13	3	1	...
Orleans	11	1	...	...	7	2	1	...	...	...	...
Oswego	16	4	2	1	3	5	1	...	...	...	...
Otsego	19	3	2	...	4	9	...	...	...	...	1
Putman	42	3	12	3	4	12	1	2	...	...	5
Rensselaer	51	2	1	1	3	27	13	4	...	...	...
Rockland	65	7	3	4	5	22	13	7	2	...	2
St. Lawrence	14	1	7	...	...	6	...	...	...	...	...
Saratoga	196	13	31	23	24	72	4	5	...	3	28
Schenectady	27	5	6	1	1	5	5	1	...	2	3
Schoharie	13	6	3	...	2	1	1	...	...	...	...
Schuyler	5	...	...	2	1	...	1	1	...	...	...
Seneca	14	1	2	...	5	3	2	1	...	...	...
Steuben	57	7	4	5	6	18	10	4	1	...	2
Sullivan	24	1	1	...	5	10	3	1	...	...	3
Tioga	19	3	1	4	4	6	1	...	...	...	...
Tompkins	20	6	4	2	2	4	...	...	...	...	2
Ulster	119	8	4	5	7	40	21	9	...	1	24
Warren	42	10	8	2	...	10	2	8	...	1	1
Washington	54	16	23	3	3	7	2	...	...	...	...
Wayne	109	16	10	10	10	49	8	5	1	...	...
Wyoming	22	1	1	2	7	7	2	2	...	...	...
Yates	5	...	...	2	...	3	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-33
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Length of Time Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	158	13	4	4	6	31	30	12	1	1	56
Total New York City	126	7	4	2	4	21	26	10	...	1	51
New York	27	5	1	1	2	8	4	1	...	...	5
Kings	74	2	1	...	...	11	19	8	...	...	33
Queens	11	...	1	...	...	2	1	1	...	1	5
Bronx	14	...	1	1	2	...	2	...	...	...	8
Richmond	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	32	6	...	2	2	10	4	2	1	...	5
Albany	...	...	...	...	...	...	...	...	...	...	...
Allegany	1	...	...	...	...	1	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	1	...	...	1	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Dutchess	1	...	...	...	1	...	...	...	...	...	...
Erie	6	...	...	1	...	2	1	2	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	1	1	...	...	...	...	...	...	...	...	...
Monroe	13	1	...	...	1	7	...	...	...	...	4
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...	...	...
Niagara	1	...	...	...	...	...	1	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...
Ononoaga	1	...	...	...	...	...	...	...	1	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...
Suffolk	3	1	...	...	...	...	2	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...
Ulster	4	3	...	...	...	...	...	...	...	...	1
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Tabe A-34
FAMILY COURT
Designated Felony Petitions Disposed:
Length of Time Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	407	54	22	14	18	105	64	39	4	...	87
Total New York City	252	15	5	6	10	65	45	29	4	...	73
New York	18	3	...	...	...	7	6	2	...	...	...
Kings	87	3	...	2	2	6	19	13	2	...	40
Queens	47	1	...	...	...	9	11	11	1	...	14
Bronx	96	7	5	4	8	42	8	2	1	...	19
Richmond	4	1	...	...	...	1	1	1	...	...	...
Total Upstate	155	39	17	8	8	40	19	10	...	...	14
Albany	16	2	1	2	...	5	2	1	...	...	3
Allegany	...	...	...	...	...	...	...	...	...	...	...
Broome	2	...	...	...	...	1	1	...	...	...	...
Cattaraugus	2	1	...	1	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	1	...	...	...	...	1	...	...	...	...	...
Chemung	9	7	2	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	1	...	...	1	1	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	2	...	...	...	...	1	1	...	...	...	...
Dutchess	10	6	2	...	...	2	...	...	...	...	...
Erie	5	...	...	...	...	3	1	1	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	1	1	...	...	...	...	...	...	...	...	...
Fulton	2	1	...	...	...	...	...	1	...	...	...
Genesee	1	...	...	...	1	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	2	2	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...
Jefferson	2	...	...	...	...	2	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...
Monroe	13	1	2	1	2	3	...	...	...	...	8
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	17	2	2	2	1	2	...	3	...	...	5
Niagara	2	...	...	...	...	...	2	...	...	...	...
Oneida	1	...	...	...	...	1	...	...	...	...	...
Onondaga	19	6	1	1	...	6	5	...	...	...	...
Ontario	2	...	...	...	1	...	...	...	...	...	1
Orange	8	1	1	...	...	4	1	1	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...
Otsego	2	...	...	...	...	2	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	...	...	...	1	...	...	...	...	...
Rockland	3	...	...	...	...	3	...	...	...	...	...
St. Lawrence	1	...	...	...	...	1	...	...	...	...	...
Saratoga	4	2	1	1	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	1	...	...	...	...	...	1	...	...	...	...
Suffolk	10	4	1	...	2	...	1	2	...	...	...
Sullivan	1	...	...	...	...	...	1	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	1	...	...	...	...	...	...	...	...	...
Ulster	1	...	...	...	...	...	...	...	...	...	1
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	4	...	4	...	...	...	...	...	...	...	...
Wayne	3	1	...	...	...	1	...	1	...	...	...
Westchester	3	...	...	...	...	...	3	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Tabe A-35
FAMILY COURT
Removed Designated Felony Petitions Disposed:
Length of Time Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	38	4	1	3	1	8	9	3	1	...	8
Total New York City	15	...	1	3	...	3	4	1	...	...	3
New York	10	...	1	2	...	3	4	...	...	...	...
Kings	...	...	...	...	...	...	...	...	...	...	...
Queens	5	...	...	1	...	...	...	1	...	...	3
Bronx	...	...	...	...	...	...	...	...	...	...	...
Richmond	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	23	4	...	...	1	5	5	2	1	...	5
Albany	1	1	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	1	1	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Dutchess	1	1	...	...	...	...	...	...	...	...	...
Erie	6	1	...	...	...	1	2	2	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	1	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...
Monroe	8	...	...	...	...	3	...	...	...	...	5
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	1	...	...	...	...	...	1	...	...	...	...
Niagara	...	...	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...
Suffolk	4	...	...	..	1	1	1	...	1	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Tabe A-36
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Number of Adjournments Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	9,828	...	1,909	1,191	784	497	309	412	4,726
Total New York City	3,906	...	591	569	470	315	236	332	1,393
New York	1,122	...	248	214	167	121	84	153	135
Kings	1,377	...	118	162	137	111	93	117	639
Queens	674	...	155	116	113	47	38	29	176
Bronx	544	...	65	76	52	35	21	33	262
Richmond	189	...	5	1	1	1	...	...	181
Total Upstate	5,922	...	1,318	622	314	182	73	80	3,333
Albany	406	...	221	25	14	5	6	5	130
Allegany	2	...	...	...	...	...	...	...	2
Broome	206	...	26	5	2	4	...	...	169
Cattaraugus	44	...	9	1	1	...	...	...	33
Cayuga	19	...	1	2	1	...	...	...	15
Chautauqua	133	...	42	8	...	...	...	...	83
Chemung	239	...	18	3	1	...	1	...	216
Chenango	6	...	...	...	...	...	...	...	6
Clinton	16	...	...	...	...	...	...	...	16
Columbia	41	...	9	3	...	1	...	...	1
Cortland	6	...	1	4	...	...	...	...	1
Delaware	11	...	...	...	...	...	...	...	11
Dutchess	171	...	28	11	10	2	5	3	112
Erie	347	...	136	72	16	13	5	2	103
Essex	18	...	6	1	...	...	...	...	11
Franklin	26	...	3	4	...	...	...	...	19
Fulton	15	...	7	...	...	...	...	...	8
Genesee	30	...	10	10	4	5	...	...	1
Greene	31	...	1	...	...	...	...	...	30
Hamilton	3	...	1	...	1	...	...	...	1
Herkimer	16	...	2	1	1	...	...	...	12
Jefferson	100	...	...	...	...	...	...	...	100
Lewis	2	...	...	1	...	...	...	...	1
livingston	28	...	5	4	...	2	1	1	15
Madison	11	...	2	...	...	...	1	...	8
Monroe	468	...	45	68	71	26	16	17	225
Montgomery	4	...	3	...	1	...	...	...	...
Nassau	679	...	95	57	32	15	4	8	468
Niagara	106	...	24	5	2	1	1	...	73
Oneida	99	...	27	16	9	4	4	4	35
Onondaga	474	...	177	88	46	56	19	16	72
Ontario	58	...	18	8	6	...	...	...	26
Orange	183	...	...	...	...	...	...	...	183
Orleans	11	...	...	2	...	1	...	...	8
Oswego	16	...	...	...	...	...	...	...	16
Otsego	19	...	5	1	...	...	...	...	13
Putman	42	...	11	7	...	2	...	...	22
Rensselaer	51	...	15	15	2	4	...	1	14
Rockland	65	...	19	20	6	6	1	1	12
St. Lawrence	14	...	6	2	...	...	...	...	6
Saratoga	196	...	38	14	1	...	...	...	143
Schenectady	27	...	3	2	...	1	1	1	19
Schoharie	13	...	1	1	...	...	...	...	11
Schuyler	5	...	...	...	...	...	...	...	5
Seneca	14	...	1	4	...	...	...	...	9
Steuben	57	...	12	6	2	2	1	...	34
Suffolk	773	...	172	91	61	19	6	11	413
Sullivan	24	...	2	4	1	...	...	...	17
Tioga	19	...	18	1	...	...	...	...	...
Tompkins	20	...	6	3	...	...	...	...	11
Ulster	119	...	27	7	2	...	...	...	83
Warren	42	...	16	3	2	...	...	...	21
Washington	54	...	6	...	...	...	...	...	48
Wayne	109	...	23	35	13	10	...	7	21
Westchester	207	...	16	4	6	3	1	3	174
Wyoming	22	...	4	3	...	...	...	...	15
Yates	5	...	...	...	...	...	...	...	5

*An admission is considered a fact-finding hearing.

Tabe A-37
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Number of Adjournments Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	158	...	18	22	20	8	10	17	63
Total New York City	126	...	16	16	15	7	8	14	50
New York	27	...	9	4	3	2	2	5	2
Kings	74	...	4	8	11	4	5	9	33
Queens	11	...	2	1	1	...	1	...	6
Bronx	14	...	1	3	...	1	...	...	9
Richmond	...	...	...	...	...	...	...	...	...
Total Upstate	32	...	2	6	5	1	2	3	13
Albany	...	...	...	...	...	...	...	...	...
Allegany	1	...	...	...	...	...	...	...	1
Broome	...	...	...	...	...	...	...	...	...
Cattarajgus	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	1	...	...	...	...	...	...	...	1
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...
Dutchess	1	...	...	...	1	...	...	...	...
Erie	6	...	1	...	1	1	...	2	1
Essex	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...
Herikimer	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	...	...	...	1
Monroe	13	...	1	4	3	...	1	...	4
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...
Niagara	1	...	...	...	...	...	...	...	1
Oneida	...	...	...	...	...	...	...	...	...
Onondaga	1	...	...	...	...	...	...	1	...
Ontario	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...
Suffolk	3	...	...	1	...	...	1	...	1
Sullivan	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...
Ulster	4	...	...	1	...	...	...	...	3
Warren	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Tabe A-38
FAMILY COURT
Designated Felony Petitions Disposed:
Number of Adjournments Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	407	...	30	17	12	9	4	14	321
Total New York City	252	...	2	2	2	3	2	8	233
New York	18	...	1	2	2	2	1	7	3
Kings	87	...	...	...	...	...	1	...	86
Queens	47	...	...	...	...	...	...	1	46
Bronx	96	...	1	...	...	1	...	...	94
Richmond	4	...	...	...	...	...	...	...	4
Total Upstate	155	...	28	15	10	6	2	6	88
Albany	16	...	5	...	4	...	1	1	5
Allegany	...	...	...	...	...	...	...	...	...
Broome	2	...	...	...	...	...	...	...	2
Cattaraugus	2	...	1	...	...	...	...	...	1
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	1	...	...	1	...	...	...	...	...
Chemung	9	...	...	...	...	...	...	...	9
Chenango	...	...	...	...	...	...	...	...	...
Clinton	3	...	...	...	...	...	...	...	3
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	2	...	...	1	...	...	...	...	1
Dutchess	10	...	...	...	1	1	...	1	7
Erie	5	...	1	3	...	...	...	1	...
Essex	...	...	...	...	...	...	...	...	...
Franklin	1	...	1	...	...	...	...	...	...
Fulton	2	...	1	...	1	...	...	...	...
Genesee	1	...	...	...	...	...	...	...	1
Greene	...	...	...	...	...	...	...	...	...
Hamilton	2	...	...	...	...	...	...	..	2
Herkimer	...	...	...	...	...	...	...	...	...
Jefferson	2	...	...	...	...	...	...	...	2
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Monroe	13	...	1	2	1	1	...	1	7
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	17	...	2	1	1	...	1	...	12
Niagara	2	...	...	...	1	...	...	...	1
Oneida	1	...	...	...	...	1	...	...	...
Onondaga	19	...	8	2	1	2	...	1	5
Ontario	2	...	...	1	...	...	...	...	1
Orange	8	...	...	...	...	...	...	...	8
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	2	...	...	...	...	...	...	...	2
Putman	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	1	...	...	...	...	...	...
Rockland	3	...	1	1	...	...	...	...	1
St. Lawrence	1	...	1	...	...	...	...	...	...
Saratoga	4	...	...	...	...	...	...	...	4
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	1	...	...	1	...	...	...	...	...
Suffolk	10	...	3	1	...	...	...	...	6
Sullivan	1	...	...	...	...	1	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	1	...	1	...	...	...	...	...	...
Ulster	1	...	...	...	...	...	...	...	1
Warren	...	...	...	...	...	...	...	...	...
Washington	4	...	...	...	...	...	...	...	4
Wayne	3	...	1	1	...	...	...	1	...
Westchester	3	...	...	...	...	...	...	...	3
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Tabe A-39
FAMILY COURT
Removed Designated Felony Petitions Disposed:
Number of Adjournments Between Filing of Petition and Fact-Finding Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	38	...	4	6	4	4	2	8	10
Total New York City	15	...	1	3	1	2	1	7	...
New York	10	...	...	2	...	1	1	6	...
Kings	...	...	...	...	...	...	...	...	...
Queens	5	...	1	1	1	1	...	1	...
Bronx	...	...	...	...	...	...	...	...	...
Richmond	...	...	...	...	...	...	...	...	...
Total Upstate	23	...	3	3	3	2	1	1	10
Albany	1	...	...	...	...	...	...	...	1
Allegany	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	1	...	...	...	...	...	...	...	1
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...
Dutchess	1	...	...	...	...	...	...	...	1
Erie	6	...	2	...	1	...	1	...	2
Essex	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	1	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Monroe	8	...	...	...	2	...	...	1	5
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	1	...	...	...	...	1	...	...	...
Niagara	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...
Suffolk	4	...	1	2	...	1	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-40
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Length of Time Between Fact-Finding Hearing and Disposition Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	9,828	2,759	198	194	340	2,361	906	959	131	25	1,955
Total New York City	3,906	969	75	60	110	779	307	260	35	15	1,296
New York	1,122	575	27	25	42	265	80	35	14	7	52
Kings	1,377	155	21	9	13	221	121	170	12	3	652
Queens	674	153	9	9	23	164	36	21	3	...	256
Bronx	544	52	14	15	30	95	55	26	4	4	249
Richmond	189	34	4	2	2	34	15	8	2	1	87
Total Upstate	5,922	1,790	123	134	230	1,582	599	699	96	10	659
Albany	406	66	23	13	25	147	29	8	...	...	95
Allegany	2	2	...	...	...	...	...	...	...	...	...
Broome	206	117	8	19	19	38	5	...	...	...	...
Cattaraugus	44	7	4	3	4	26	...	...	...	...	...
Cayuga	19	2	...	...	...	16	1	...	...	...	...
Chautauqua	133	32	2	15	20	37	4	21	2	...	...
Chemung	239	63	1	4	13	113	39	3	2	...	1
Chenango	6	5	...	...	...	1	...	...	...	...	...
Clinton	16	8	...	2	...	3	...	3	...	...	...
Columbia	41	32	1	1	1	4	1	1	...	...	...
Cortland	6	...	...	...	...	5	...	...	1	...	...
Delaware	11	7	...	...	2	1	...	1	...	...	...
Dtuchess	171	33	4	12	8	44	23	37	6	4	...
Erie	347	123	3	1	2	32	49	130	4	1	2
Essex	18	4	...	...	...	2	3	1	...	...	8
Franklin	26	6	1	1	...	9	8	1	...	...	...
Fulton	15	3	1	...	...	3	...	1	...	...	7
Genesee	30	8	...	3	3	8	4	3	...	...	1
Greene	31	20	...	1	...	3	1	5	1	...	...
Hamilton	3	2	...	...	...	...	1	...	...	...	...
Herkimer	16	8	...	...	...	3	1	2	1	...	1
Jefferson	100	33	7	7	17	12	7	12	5	...	...
Lewis	2	1	...	1	...	...	...	...	...	...	...
Livingston	28	26	1	...	...	1	...	...	...	...	...
Madison	11	8	1	...	...	2	...	...	...	...	...
Monroe	468	13	7	7	22	163	16	29	7	...	204
Montgomery	4	...	...	...	...	3	...	1	...	...	...
Nassau	679	190	9	5	5	227	77	30	7	3	126
Niagara	106	57	4	2	6	25	...	1	2	...	9
Oneida	99	26	3	1	5	52	7	1	...	...	4
Onondaga	474	331	5	6	13	101	11	7	...	...	...
Ontario	58	15	4	...	2	19	9	9	...	...	...
Orange	183	36	6	2	1	59	14	55	10	...	...
Orleans	11	...	...	2	6	3	...	...	...	...	...
Oswego	16	7	...	...	1	7	1	...	...	...	...
Otsego	19	1	2	...	3	8	4	...	...	...	1
Putman	42	9	...	...	1	12	2	13	...	...	5
Rensselaer	51	43	...	...	2	3	2	1	...	...	...
Rockland	65	48	...	...	...	10	2	3	...	...	2
St. Lawrence	14	2	...	...	...	12	...	...	...	...	...
Saratoga	196	32	5	2	2	31	33	70	...	...	21
Schenectady	27	11	2	1	1	11	...	...	...	...	1
Schoharie	13	5	1	1	...	3	3	...	...	...	...
Schuyler	5	1	...	...	...	1	1	2	...	...	...
Seneca	14	7	...	...	1	6	...	...	...	...	...
Steuben	57	22	1	1	1	10	6	12	2	...	2
Suffolk	773	88	4	17	30	197	142	151	32	1	111
Sullivan	24	15	1	...	1	4	...	...	...	...	3
Tioga	19	6	...	...	2	4	7	...	...	...	...
Tompkins	20	9	1	...	1	5	1	1	...	...	2
Ulster	119	29	3	3	...	25	25	9	...	1	24
Warren	42	19	3	...	4	5	5	5	...	...	1
Washington	54	41	1	...	...	8	...	6	...	...	...
Wayne	109	30	...	1	...	18	22	38	...	...	...
Westchester	207	74	4	...	1	33	30	23	14	...	28
Wyoming	22	7	...	...	5	7	...	3	...	...	...
Yates	5	...	...	...	...	2	3	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-41
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Length of Time Between Fact-Finding Hearing and Disposition Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	158	32	5	4	4	22	13	20	1	1	56
Total New York City	126	23	4	1	4	16	12	14	...	1	51
New York	27	11	2	...	3	3	2	...	...	1	5
Kings	74	7	1	...	...	10	10	13	...	...	33
Queens	11	2	...	...	1	2	...	1	...	...	5
Bronx	14	3	1	1	...	1	...	...	...	...	8
Richmond	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	32	9	1	3	...	6	1	6	1	...	5
Albany	...	...	...	...	...	...	...	...	...	...	...
Allegany	1	1	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	1	...	1	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	..	...
Dutchess	1	...	...	1	...	...	...	...	...	...	...
Erie	6	2	...	...	...	1	1	1	1	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	
Fulton	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	1	...	...	...	...	...	...	...
Monroe	13	1	...	...	...	3	...	5	...	...	4
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...	...	...
Niagara	1	...	...	1	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...
Onondaga	1	...	...	...	...	1	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	..	...	...	...	...
Suffolk	3	2	...	...	...	1	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...
Ulster	4	3	...	...	...	...	...	...	...	...	1
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-42
FAMILY COURT
Designated Felony Petitions Disposed:
Length of Time Between Fact-Finding Hearing and Disposition Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	407	86	18	14	17	132	27	23	3	...	87
Total New York City	252	32	13	10	14	79	15	14	2	...	73
New York	18	4	...	1	1	9	3	...	...	...	...
Kings	87	7	2	...	1	19	7	11	...	...	40
Queens	47	13	...	1	...	18	...	1	...	...	14
Bronx	96	7	10	8	12	12	5	1	2	...	19
Richmond	4	1	1	...	...	1	...	1	...	...	...
Total Upstate	155	54	5	4	3	53	12	9	1	...	14
Albany	16	3	...	1	...	5	4	...	...	...	3
Allegany	...	...	...	...	...	...	...	...	...	...	...
Broome	2	2	...	...	...	...	...	...	...	...	...
Cattaraugus	2	...	...	...	...	2	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	1	1	...	...	...	...	...	...	...	...	...
Chemung	9	7	...	...	...	2	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	3	2	...	...	...	1	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	2	...	...	...	1	...	1	...	...	...	...
Dutchess	10	3	...	...	...	3	1	3	...	...	...
Erie	5	4	...	...	...	...	...	1	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	1	...	1	...	...	...	...	...	...	...	...
Fulton	2	...	...	...	...	2	...	...	...	...	...
Genesee	1	...	...	...	...	1	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	2	2	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...
Jefferson	2	...	...	...	...	2	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...
Monroe	13	...	...	...	...	6	1	2	...	...	4
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	17	3	...	1	1	4	1	1	1	...	5
Niagara	2	...	...	2	...	...	...	...	...	...	...
Oneida	1	...	...	...	...	1	...	...	...	...	...
Onondaga	19	13	1	...	...	5	...	...	...	...	...
Ontario	2	...	...	...	...	1	...	...	...	...	1
Orange	8	1	2	...	...	3	1	1	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...
Otsego	2	...	...	...	...	2	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	...	...	...	1	...	...	...	...	...
Rockland	3	2	...	...	...	1	...	...	...	...	...
St. Lawrence	1	...	...	...	...	1	...	...	...	...	...
Saratoga	4	1	1	...	1	1	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	1	...	...	...	...	...	1	...	...	...	...
Suffolk	10	1	...	...	...	7	1	1	...	...	...
Sullivan	1	...	...	...	...	1	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	1	1	...	...	...	...	...	...	...	...	...
Ulster	1	...	...	...	...	...	...	...	...	...	1
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	4	4	...	...	...	...	...	...	...	...	...
Wayne	3	3	...	...	...	...	...	...	...	...	...
Westchester	3	1	...	...	...	1	1	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-43
FAMILY COURT
Removed Designated Felonies Petitions Disposed: Length of Time Between Fact-Finding Hearing and Disposition Hearing*
1985

	Total	0-7 Days	8-14 Days	15-21 Days	22-30 Days	31-90 Days	91-180 Days	181-365 Days	366-730 Days	731 or More Days	Not Reported
Total New York State	38	12	...	1	2	11	2	1	1	...	8
Total New York City	15	4	...	1	1	6	...	...	...	...	3
New York	10	2	...	1	1	6	...	...	...	...	...
Kings	...	...	...	...	...	...	...	...	...	...	...
Queens	5	2	...	...	...	...	...	...	...	...	3
Bronx	...	...	...	...	...	...	...	...	...	...	...
Richmond	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	23	8	...	...	1	5	2	1	1	...	5
Albany	1	1	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...
Clinton	1	1	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...
Dutchess	1	1	...	...	...	...	...	...	...	...	...
Erie	6	4	...	...	...	1	...	1	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	1	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...
Monroe	8	...	...	...	1	2	...	...	...	...	1
Montgomery	...	...	...	...	...	...	...	...	...	...	...
Nassau	1	1	...	...	...	...	...	...	...	...	...
Niagara	...	...	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...	...
Suffolk	4	...	...	...	...	2	1	...	1	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Tabe A-44
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Deposed: Number of Adjournments Between Fact-Finding Hearing and Dispositional Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	9,828	...	2,022	886	513	381	194	259	5,623
Total New York City	3,906	...	599	303	206	150	97	156	2,395
New York	1,122	...	188	102	73	63	32	72	592
Kings	1,377	...	208	84	63	36	25	50	911
Queens	674	...	124	70	29	24	20	8	399
Bronx	544	...	76	45	40	26	20	26	311
Richmond	189	...	3	2	1	1	...	...	182
Total Upstate	5,922	...	1,423	583	307	181	97	103	3,228
Albany	406	...	166	74	32	17	12	11	94
Allegany	2	...	...	...	...	...	...	...	2
Broome	206	...	10	1	10	3	...	...	182
Cattaraugus	44	...	33	4	1	...	...	...	6
Cayuga	19	...	15	1	...	...	...	...	3
Chautauqua	133	...	73	23	7	1	1	...	28
Chemung	239	...	9	1	...	...	...	...	229
Chenango	6	...	...	...	...	...	...	...	6
Clinton	16	...	1	...	...	...	...	...	15
Columbia	41	...	4	...	...	1	...	1	35
Cortland	6	...	3	2	...	...	...	...	1
Delaware	11	...	...	...	...	...	...	...	11
Dutchess	171	...	49	27	1	11	6	1	66
Erie	347	...	60	25	11	7	2	...	242
Essex	18	...	4	1	...	...	...	...	12
Franklin	26	...	18	...	...	...	...	...	8
Fulton	15	...	4	...	...	...	...	...	11
Genesee	30	...	13	4	1	...	...	...	12
Greene	31	...	...	...	...	...	...	...	31
Hamilton	3	...	1	...	1	...	...	...	1
Herkimer	16	...	5	1	...	...	...	...	10
Jefferson	100	...	7	1	...	...	...	...	92
Lewis	2	...	...	...	...	...	...	...	2
Livingston	28	...	1	...	...	...	1	1	25
Madison	11	...	1	...	...	...	...	...	10
Monroe	468	...	87	58	39	11	19	16	238
Montgomery	4	...	2	...	...	...	...	...	2
Nassau	679	...	166	86	47	37	21	34	288
Niagara	106	...	18	4	...	...	...	...	84
Oneida	99	...	40	15	10	5	2	3	24
Onondaga	474	...	53	27	31	14	5	5	339
Ontario	58	...	17	6	2	1	...	...	32
Orange	183	...	...	...	...	...	...	...	183
Orleans	11	...	11	...	...	...	...	...	...
Oswego	16	...	...	...	...	...	...	...	16
Otsego	19	...	1	1	...	...	...	...	17
Putman	42	...	23	7	1	1	...	...	10
Rensselaer	51	...	4	1	1	...	...	...	45
Rockland	65	...	15	4	3	1	...	1	41
St. Lawrence	14	...	7	...	1	...	...	...	6
Saratoga	196	...	106	26	6	4	1	...	53
Schenectady	27	...	6	...	1	...	1	1	18
Schoharie	13	...	7	...	1	...	...	...	5
Schuyler	5	...	...	1	...	...	...	...	4
Seneca	14	...	7	...	...	...	...	...	7
Steuben	57	...	16	4	7	1	...	...	35
Suffolk	773	...	207	155	7	55	21	25	231
Sullivan	24	...	4	1	2	...	...	...	17
Tioga	19	...	11	4	...	...	...	...	4
Tompkins	20	...	2	4	2	...	...	1	11
Ulster	119	...	32	5	...	...	...	...	82
Warren	42	...	15	...	3	2	1	1	20
Washington	54	...	5	2	...	...	...	...	47
Wayne	109	...	53	4	3	8	4	1	36
Westchester	207	...	18	3	...	...	...	1	185
Wyoming	22	...	8	...	...	...	...	...	14
Yates	5	...	5	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-45
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Number of Adjournments Between Fact-Finding Hearing and Dispositional Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	158	...	33	18	9	2	5	3	88
Total New York City	126	...	21	14	6	2	4	3	76
New York	27	...	4	5	1	2	1	1	13
Kings	74	...	13	5	3	...	2	2	49
Queens	11	...	2	3	2	...	1	...	3
Bronx	14	...	2	1	...	...	...	...	11
Richmond	...	...	...	...	...	...	...	...	...
Total Upstate	32	...	12	4	3	...	1	...	12
Albany	...	...	...	...	...	...	...	...	...
Allegany	1	...	...	...	...	...	...	...	1
Broome	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	1	...	1	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...
Dutchess	1	...	1	...	...	...	...	...	...
Erie	6	...	2	1	1	...	...	...	2
Essex	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	...	...	...	1
Monroe	13	...	1	2	2	...	1	...	7
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...
Niagara	1	...	...	...	...	...	...	...	1
Oneida	...	...	...	...	...	...	...	...	...
Onondaga	1	...	1	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...
Suffolk	3	...	2	1	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...
Ulster	4	...	4	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding Hearing

Table A-46
FAMILY COURT
Designated Felony Petitions Disposed:
Number of Adjournments Between Fact-Finding Hearing and Dispositional Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	407	...	37	8	7	7	4	5	339
Total New York City	252	...	6	3	1	4	...	1	237
New York	18	...	4	2	1	4	...	1	6
Kings	98	...	...	...	...	...	...	...	87
Queens	47	...	...	1	...	...	...	...	46
Bronx	96	...	2	...	...	...	...	...	94
Richmond	4	...	...	...	...	...	...	...	4
Total Upstate	155	...	31	5	6	3	4	4	102
Albany	16	...	6	...	2	1	3	...	4
Allegany	...	...	...	...	...	...	...	...	...
Broome	2	...	...	...	...	...	...	...	2
Cattaraugus	2	...	2	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	1	...	...	...	...	...	...	...	1
Chemung	9	...	...	...	...	...	...	...	9
Chenango	...	...	...	...	...	...	...	...	...
Clinton	3	...	...	1	...	...	...	...	2
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	2	...	...	...	...	...	...	...	2
Dutchess	10	...	2	2	...	...	...	3	3
Erie	5	...	...	...	...	1	...	...	4
Essex	...	...	...	...	...	...	...	...	...
Franklin	1	...	1	...	...	...	...	...	...
Fulton	2	...	1	1	...	...	...	...	...
Genesee	1	...	...	...	...	...	...	...	1
Greene	...	...	...	...	...	...	...	...	...
Hamilton	2	...	...	...	...	...	...	...	2
Herkimer	...	...	...	...	...	...	...	...	...
Jefferson	2	...	...	...	...	...	...	...	2
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Montogmery	...	...	...	...	...	...	...	...	...
Nassau	17	...	1	...	1	...	...	...	15
Niagara	2	...	1	...	...	...	...	...	1
Oneida	1	...	1	...	...	...	...	...	...
Onondaga	19	...	2	1	1	...	...	...	15
Ontario	2	...	1	...	...	...	...	...	1
Orange	8	...	...	...	...	...	...	...	8
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	2	...	...	...	...	...	...	...	2
Putman	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	1	...	...	...	...	...	...
Rockland	3	...	2	...	...	...	...	...	1
St. Lawrence	1	...	...	...	...	...	...	...	1
Saratoga	4	...	2	...	...	...	...	...	2
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	1	...	1	...	...	...	...	...	...
Suffolk	10	...	4	...	2	...	...	...	4
Sullivan	1	...	...	...	...	1	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	...	...	...	...	...	1
Ulster	1	...	...	...	...	...	...	...	1
Warren	...	...	...	...	...	...	...	...	...
Washington	4	...	...	...	...	...	...	...	4
Wayne	3	...	...	...	...	...	...	...	3
Westchester	3	...	...	...	...	...	...	...	3
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-47
FAMILY COURT
Removed Designated Felony Petitions Disposed:
Number of Adjournments Between Fact-Finding Hearing and Dispositional Hearing*
1985

	Total	None	1	2	3	4	5	Over 5	Not Reported
Total New York State	38	...	5	6	1	2	1	2	21
Total New York City	15	...	2	4	...	2	...	...	7
New York	10	...	2	4	...	2	...	...	2
Kings	...	...	...	...	...	...	...	...	...
Queens	5	...	...	...	...	...	...	...	5
Bronx	...	...	...	...	...	...	...	..	...
Richmond	...	...	...	...	...	...	...	...	...
Total Upstate	23	...	3	2	1	...	1	2	14
Albany	1	...	...	...	...	...	...	...	1
Allegany	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	1	...	...	...	...	...	...	...	1
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...
Dutchess	1	...	...	...	...	...	...	...	1
Erie	6	...	1	1	...	...	...	...	4
Essex	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	1
Jefferson	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Monroe	8	...	1	1	1	...	...	...	5
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	1	...	...	...	...	...	...	...	1
Niagara	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...
Putman	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...
Suffolk	4	...	1	...	...	...	1	2	...
Sullivan	...	...	...	...	...	...	...	...	...
tioga	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

*An admission is considered a fact-finding hearing.

Table A-48
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Court's Determination After Fact-Finding
1985

	Total	Allegations Not Established At Fact-Finding Hearing	Allegations Established At Fact-Finding Hearing	Findind was a Result of Admission by Respondent
Total New York State	9,689	3,820	1,850	4,109
Total New York City	3,890	1,822	664	1,404
New York	1,120	513	214	393
Kings	1,370	692	120	558
Queens	670	276	75	319
Bronx	544	248	237	59
Richmond	186	93	18	75
Total Upstate	5,799	1,998	1,184	2,615
Albany	406	98	...	308
Allegany	2	1	1	...
Broome	205	32	74	99
Cattaraugus	43	6	...	37
Cayuga	19	2	...	17
Chautauqua	132	45	2	85
Chemung	239	2	18	219
Chenango	5	3	...	2
Clinton	16	...	3	13
Columbia	41	23	6	12
Cortland	6	1	...	5
Delaware	11	5	3	3
Dutchess	168	61	14	93
Erie	344	181	24	139
Essex	16	9	...	7
Franklin	26	4	3	19
Fulton	15	6	4	5
Genesee	30	16	1	13
Greene	30	19	7	4
Hamilton	3	1	...	2
Herkimer	16	6	1	9
Jefferson	100	40	10	50
Lewis	2	...	...	2
Livingston	28	18	...	10
Madison	9	4	1	4
Monroe	466	205	54	207
Montgomery	4	...	...	4
Nassau	677	197	240	240
Niagara	106	39	11	56
Oneida	97	28	37	32
Onondaga	471	314	35	122
Ontario	58	10	8	40
Orange	179	72	8	99
Orleans	11	1	1	9
Oswego	14	2	4	8
Otsego	19	1	3	15
Putman	41	21	2	18
Rensselaer	50	42	...	8
Rockland	65	21	5	39
St. Lawrence	13	4	5	4
Saratoga	195	64	5	126
Schenectady	20	8	5	7
Schoharie	12	5	1	6
Schuyler	5	4	...	1
Seneca	13	7	4	2
Steuben	49	23	4	22
Suffolk	708	135	428	145
Sullivan	24	13	4	7
Tioga	19	3	2	14
Tompkins	20	7	4	9
Ulster	116	42	14	60
Warren	42	13	3	26
Washington	52	13	37	2
Wayne	109	20	45	44
Westchester	206	94	39	73
Wyoming	21	7	6	8
Yates	5	...	...	5

Table A-49
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Courts Determination After Fact-Finding
1985

	Total	Allegations Not Established At Fact-Finding Hearing	Allegations Established At Fact-Finding Hearing	Finding was a Result of Admission by Respondent
Total New York State	158	63	25	70
Total New York City	126	59	17	50
New York	27	16	4	7
Kings	74	33	2	39
Queens	11	2	5	4
Bronx	14	8	6	...
Richmond	...	...	...	...
Total Upstate	32	4	8	20
Albany	...	...	...	...
Allegany	1	...	1	...
Broome	...	...	...	...
Cattaraugus	...	...	...	...
Cayuga	...	...	...	...
Chautauqua	...	...	...	...
Chemung	...	...	...	...
Chenango	...	...	...	...
Clinton	1	...	...	...
Columbia	...	...	...	...
Cortland	...	...	...	...
Delaware	...	...	...	...
Dutchess	1	...	...	1
Erie	6	...	1	...
Essex	...	...	...	...
Franklin	...	...	...	...
Fulton	...	...	...	...
Genesee	...	...	...	...
Greene	...	...	...	...
Hamnilton	...	...	...	...
Herkimer	...	...	...	...
Jefferson	...	...	...	...
Lewis	...	...	...	...
Livingston	...	...	...	...
Madison	1	1	...	...
Monroe	13	1	3	9
Montgomery	...	...	...	...
Nassau	...	...	...	...
Niagara	1	1	...	...
Oneida	...	...	...	...
Onondaga	1	...	1	...
Ontario	...	...	...	...
Orange	...	...	...	...
Orleans	...	...	...	...
Oswego	...	...	...	...
Otsego	...	...	...	...
Putman	...	...	...	...
Rensselaer	...	...	...	...
Rockland	...	...	...	...
St. Lawrence	...	...	...	...
Saratoga	...	...	...	...
Schenectady	...	...	...	...
Schoharie	...	...	...	...
Schuyler	...	...	...	...
Seneca	...	...	...	...
Steuben	...	...	...	...
Suffolk	3	...	2	1
Sullivan	...	...	...	...
Tioga	...	...	...	...
Tompkins	...	...	...	...
Ulster	4	1	...	3
Warren	...	...	...	...
Washington	...	...	...	...
Wayne	...	...	...	...
Westchester	...	...	...	...
Wyoming	...	...	...	...
Yates	...	...	...	...

Table A-50
Family Court
Designated Felony Petitions Disposed: Courts Determination After Fact-Finding
1985

	Total	Allegations Not Established At Fact-Finding Hearing	Allegations Established At Fact-Finding Hearing	Finding was a Result of Admission by Respondent
Total New York State	407	128	117	162
Total New York City	252	83	87	82
New York	18	3	11	4
Kings	87	40	12	35
Queens	47	21	7	19
Bronx	96	19	57	20
Richmond	4	...	...	4
Total Upstate	155	45	30	80
Albany	16	4	...	12
Allegany	...	...	...	...
Broome	2	...	2	...
Cattaraugus	2	...	...	2
Cayuga	...	...	...	...
Chautauqua	1	1	...	...
Chemung	9	...	...	9
Chenango	...	...	...	...
Clinton	3	2	1	...
Columbia	...	...	...	...
Cortland	...	...	...	...
Delaware	2	1	...	1
Dutchess	10	6	2	2
Erie	5	4	...	1
Essex	...	...	...	...
Franklin	1	...	...	1
Fulton	2	...	1	1
Genesee	1	...	...	1
Greene	...	...	...	...
Hamilton	2	...	...	2
Herkimer	...	...	...	...
Jefferson	2	1	...	1
Lewis	...	...	...	...
Livingston	...	...	...	...
Madison	...	...	...	...
Monroe	13	4	...	9
Montgomery	...	...	...	...
Nassau	17	5	7	5
Niagara	2	...	2	...
Oneida	1	...	...	1
Onondaga	19	11	5	3
Ontario	2	1	...	1
Orange	8	...	...	8
Orleans	...	...	...	...
Oswego	...	...	...	...
Otsego	2	...	2	...
Putman	...	...	...	...
Rensselaer	1	...	...	1
Rockland	3	1	...	2
St. Lawrence	1	...	...	1
Saratoga	4	...	1	3
Schenectady	...	...	...	...
Schoharie	...	...	...	...
Schuyler	...	...	...	...
Seneca	...	...	...	...
Steuben	1	...	...	1
Suffolk	10	...	6	4
Sullivan	1	...	...	1
Tioga	...	...	...	...
Tompkins	1	...	...	1
Ulster	1	1	...	...
Warren	...	...	...	...
Washington	4	...	...	4
Wayne	3	2	1	...
Westchester	3	1	...	2
Wyoming	...	...	...	...
Yates	...	...	...	...

Table A-51
FAMILY COURT
Removed Designated Felony Petitions Disposed: Courts Determination After Fact-Finding
1985

	Total	Allegations Not Established At Fact-Finding Hearing	Allegations Established At Fact-Finding Hearing	Finding was a Result of Admission by Respondent
Total New York State	38	16	10	12
Total New York City	15	6	7	2
New York	10	1	7	2
Kings	...	...	...	...
Queens	5	5	...	...
Bronx	...	...	...	...
Richmond	...	...	...	...
total Upstate	23	10	3	10
albany	1	...	...	1
Allegany	...	...	...	...
Broome	...	...	...	...
Cattaraugus	...	...	...	...
Cayuga	...	...	...	...
Chautauqua	...	...	...	...
Chemung	...	...	...	...
Chenango	...	...	...	...
Clinton	1	...	1	...
Columbia	...	...	...	...
Cortland	...	...	...	...
Delaware	...	...	...	...
Dutchess	1	1	...	...
Erie	6	3	1	2
Essex	...	...	...	...
Franklin	...	...	...	...
Fulton	...	...	...	...
Genesee	...	...	...	...
Greene	...	...	...	...
Hamilton	...	...	...	...
Herkimer	1	...	...	1
Jefferson	...	...	...	...
Lewis	...	...	...	...
Livingston	...	...	...	...
Madison	...	...	...	...
Monroe	8	5	1	2
Montgomery	...	...	...	...
Nassau	1	1	...	...
Niagara	...	...	...	...
Oneida	...	...	...	...
Onondaga	...	...	...	...
Ontario	...	...	...	...
Orange	...	...	...	...
Orleans	...	...	...	...
Oswego	...	...	...	...
Otsego	...	...	...	...
Putman	...	...	...	...
Rensselaer	...	...	...	...
Rockland	...	...	...	...
St. Lawrence	...	...	...	...
Saratoga	...	...	...	...
Schenectady	...	...	...	...
Schoharie	...	...	...	...
Schuyler	...	...	...	...
Seneca	...	...	...	...
Steuben	...	...	...	...
Suffolk	4	...	...	4
Sullivan	...	...	...	...
Tioga	...	...	...	...
Tompkins	...	...	...	...
Ulster	...	...	...	...
Warren	...	...	...	...
Washington	...	...	...	...
Wayne	...	...	...	...
Westechester	...	...	...	...
Wyoming	...	...	...	...
Yates	...	...	...	...

Table A-52 (partial)
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Dispositions
1985

County and Region	Total	Allegations Not Established								
		Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed Fail to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition
Total New York State	9,828	170	30	339	316	1,928	1,002	1,197	251	170
Total New York City	3,906	86	19	256	136	631	308	819	7	3
New York	1,122	29	4	63	48	120	124	223	2	1
Kings	1,377	20	7	120	16	297	89	307	2	1
Queens	674	26	6	54	5	133	38	120	2	...
Bronx	544	10	1	15	46	22	41	137	1	1
Richmond	189	1	1	4	1	59	16	32	...	...
Total Upstate	5,922	84	11	83	182	1,297	694	378	244	147
Albany	406	...	...	9	...	103	45	1	31	3
Allegany	2	...	...	...	...	...	1	...	...	...
Broome	206	...	...	4	...	4	74	4	1	2
Cattaraugus	44	...	...	...	...	2	1	3	...	...
Cayuga	19	...	...	...	...	5	6	...	...	...
Chautauqua	133	...	...	1	6	27	29	1	...	...
Chemung	239	1	...	1	9	8	2	5	9	29
Chenango	6	...	...	...	...	1	4	1	...	...
Clinton	16	...	...	...	...	3	...	...	...	...
Columbia	41	1	...	1	2	9	...	...	4	7
Cortland	4	...	...	...	...	1	...	...	...	...
Delaware	11	2	...	...	...	1	1	1	...	1
Dutchess	171	...	...	4	...	38	9	7	4	37
Erie	347	13	...	5	54	129	23	1	3	...
Essex	18	...	...	...	...	3	...	5	2	...
Franklin	26	...	...	...	...	3	2	2	...	...
Fulton	15	...	...	...	4	1	1	2	2	...
Genesee	30	...	...	1	...	8	3	3	1	1
Greene	31	3	...	9	...	6	...	2	...	...
Hamilton	3	...	...	...	...	...	...	1	...	...
Herkimer	16	1	...	1	1	4	...	...	...	...
Jefferson	100	3	...	...	...	22	...	...	2	14
Lewis	2	...	...	...	...	...	...	...	...	...
Livingston	28	...	...	1	...	11	3	...	3	2
Madison	11	...	...	...	2	1	...	1	...	1
Monroe	468	3	...	2	8	132	58	26	3	...
Montgomery	4	...	...	...	...	1	...	...	...	...
Nassau	679	5	1	1	1	79	80	20	114	29
Niagara	106	2	...	5	3	13	2	11	1	11
Oneida	99	6	1	2	2	2	3	13	...	...
Onondaga	474	3	1	5	39	130	134	8	8	1
Ontario	58	1	...	...	1	9	...	2	1	...
Orange	183	2	...	2	4	62	21	8	1	...
Orleans	11	...	...	...	...	...	1	...	...	...
Oswego	16	...	...	...	2	1	...	1	1	...
Otsego	19	...	...	...	...	...	1	...	1	...
Putnam	42	2	...	2	...	13	4	2	...	...
Rensselaer	91	3	...	...	3	23	8	3	...	3
Rockland	65	...	...	3	4	8	2	6	9	...
St.Lawrence	14	1	...	...	...	...	1	1	...	1
Saratoga	196	3	2	10	2	106	10	13	5	...
Schenectady	27	...	...	1	1	3	...	4	1	...
Schoharie	13	1	...	...	...	1	...	3	...	...
Schuyler	5	...	...	...	...	3	2	...	...	...
Seneca	14	1	...	...	...	1	3	...	2	...
Steuben	57	...	...	...	2	14	9	9	2	4
Suffolk	773	...	4	9	17	196	104	133	10	...
Sullivan	24	2	...	...	3	1	3	...	...	5
Tioga	19	1	...	...	...	1	...	1	3	...
Tompkins	20	3	...	...	...	...	...	4	2	...
Ulster	119	...	1	...	6	15	6	19	2	...
Warren	42	...	...	...	1	14	1	1	2	1
Washington	54	8	...	...	...	6	...	2	6	...
Wayne	109	2	...	...	...	41	9	14	4	...
Westchester	207	11	1	4	5	29	28	31	5	15
Wyoming	22	...	...	...	...	3	...	3	1	...
Yates	5	...	...	...	...	...	...	...	...	...

Table A-52 (concluded)
FAMILY COURT
Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Dispositions
1985

Region and County	Allegations Established								
					Placement				
	Discharged to Mental Hygiene Institution	Discharged with Warning	Conditional Discharge	Probation	Home Relative Private Person	Comm. of Social Services	Division For Youth Title II	Division For Youth Title III	Other Placement
Total New York State	4	282	83	2,316	11	400	500	762	57
Total New York City	3	148	3	752	2	31	336	343	23
New York	3	28	...	205	2	5	134	119	12
Kings	...	69	2	252	...	10	56	99	10
Queens	...	11	1	158	...	8	78	33	1
Bronx	...	27	...	103	...	5	57	78	...
Richmond	...	13	...	34	...	3	11	14	...
Total Upstate	1	134	80	1,564	9	369	172	419	34
Albany	...	2	10	105	...	28	4	65	...
Allegany	...	...	...	1	...	...	...	...	...
Broome	...	...	...	54	...	31	2	28	2
Cattaraugus	...	...	...	28	1	2	4	3	...
Cayuga	...	...	...	4	...	3	1	...	...
Chautauqua	...	1	...	40	...	22	1	5	...
Chemung	...	35	3	80	...	29	1	27	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	6	...	1	1	5	...
Columbia	...	...	...	8	...	2	1	6	...
Cortland	...	...	...	2	...	...	3	...	...
Delaware	...	2	2	...	...	...	...	1	...
Dutchess	...	4	...	38	...	22	1	7	...
Erie	...	...	7	59	...	10	6	17	...
Essex	...	...	...	3	...	1	1	3	...
Franklin	...	...	3	14	...	2	...	...	...
Fulton	...	...	...	2	...	...	...	3	...
Genesee	...	1	...	9	...	3	...	...	...
Greene	...	...	...	2	...	1	2	6	...
Hamilton	...	...	...	2	...	...	...	...	...
Herkimer	...	...	1	3	...	1	4	...	...
Jefferson	...	...	2	49	...	5	2	1	...
Lewis	...	...	...	1	...	...	1	...	...
Livingston	...	...	...	4	...	...	4	...	...
Madison	...	...	...	2	...	1	1	2	...
Monroe	...	9	...	112	1	10	8	80	16
Montgomery	...	...	...	2	...	...	1	...	...
Nassau	...	28	20	229	...	...	31	26	19
Niagara	...	1	3	32	...	2	9	11	...
Oneida	...	...	...	29	...	12	24	5	...
Onondaga	...	3	2	53	1	36	24	26	...
Ontario	...	5	8	29	...	7	...	2	...
Orange	...	12	...	42	...	13	...	16	...
Orleans	...	...	...	1	...	4	5	...	...
Oswego	...	...	2	7	2	...	...	...	...
Otsego	...	3	...	6	...	4	3	1	...
Putnam	...	...	...	15	...	1	...	3	...
Rensselaer	...	1	...	4	...	3	...	...	...
Rockland	1	...	...	19	...	5	5	3	...
St.Lawrence	...	...	...	7	...	3	...	...	...
Saratoga	...	2	...	25	...	10	...	8	...
Schenectady	...	...	...	9	...	2	...	6	...
Schoharie	...	...	...	2	...	2	1	3	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	1	4	...	...	...	2	...
Steuben	...	...	...	12	...	4	1	...	...
Suffolk	...	12	10	242	...	22	4	10	...
Sullivan	...	...	...	6	1	1	1	1	...
Tioga	...	...	1	6	...	3	2	1	...
Tompkins	...	1	1	6	...	...	3	...	...
Ulster	...	2	...	29	...	10	8	21	...
Warren	...	...	4	8	...	8	...	1	1
Washington	...	...	4	15	...	12	...	3	...
Wayne	...	3	1	26	...	5	2	2	...
Westchester	...	5	2	53	3	6	...	9	...
Wyoming	...	...	...	15	...	...	...	...	...
Yates	...	2	...	3	...	...	...	...	...

Table A-53 (partial)
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Dispositions
1985

Region and County	Total	Allegations Not Established								
		Dismissal at Fact-Finding Hearing	Dismissed at Dispositional Hearing	Dismissed Fail to Prosecute	Dismissed Without Prejudice	Dismissed in Furtherance of Justice (ACD)	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition
Total New York State	158	...	...	15	8	37	11	18	2	3
Total New York City	126	...	...	15	8	29	10	14	...	3
New York	27	...	...	1	1	...				
Kings	74	...	...	13	2	28	2	5	...	...
Queens	11	...	...	1	...	1	1	...	...	...
Bronx	14	...	...	...	5	...	...	4	...	...
Richmond	...	...	...	...	...	...	...	...	...	...
Total Upstate	32	...	...	...	...	8	1	4	2	...
Albany	...	...	...	...	...	...	...	...	...	...
Allegany	1	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...
Chautaugua	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...
Clinton	1	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...
Dutchess	1	...	...	...	...	...	...	...	...	...
Erie	6	...	...	...	...	2	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...
Madison	1	...	...	...	...	1	...	...	...	...
Monroe	13	...	...	...	...	5	...	1	1	...
Montgomery	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...	...
Niagara	1	...	...	...	...	...	1	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...
Onondaga	1	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...
St.Lawrence	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...	...
Suffolk	3	...	...	...	...	...	...	...	1	...
Sullivan	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...
Ulster	4	...	...	...	...	...	...	3	...	...
Warren	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...

Table A-53 (concluded)
FAMILY COURT
Removed Juvenile Delinquency Petitions (Excluding Designated Felonies) Disposed: Dispositions
1985

Region and County	Allegations Established								
					Placement				
	Discharged to Mental Hygiene Institution	Discharged with Warning	Conditional Discharge	Probation	Home Relative Private Person	Comm. of Social Services	Division For Youth Title II	Division For Youth Title III	Other Placement
Total New York State	...	5	...	29	...	3	6	21	...
Total New York City	...	4	...	23	...	1	5	14	...
New York	...	1	...	1	...	...	3	5	...
Kings	...	2	...	14	...	1	...	7	...
Queens	...	...	...	6	...	...	1	1	...
Bronx	...	1	...	2	...	...	1	1	...
Richmond	...	...	...	...	...	...	...	...	...
Total Upstate	...	1	...	6	...	2	1	7	...
Albany	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	1	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautaugua	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	...	...	...	1	...
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...
Dutchess	...	...	...	...	...	1	...	...	...
Erie	...	...	...	2	...	1	...	1	...
Essex	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Monroe	...	1	...	...	...	...	...	5	...
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...
Niagara	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	1	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...
St.Lawrence	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...
Suffolk	...	...	...	2	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	1	...	...
Warren	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

Table A-54 (partial)
FAMILY COURT
Designated Felony Petitions
Disposed:
Dispositions
1985

	Total	Allegations Not Established							
		Dismissed at Fact Finding Hearing	Dismissed at Disp. Hearing	Dismissed Fail to Prosecute	Dismissed Without Prejudice	Other Dismissed	Withdrawn	Transferred to Other County	Dismissed to Other Pet.
Total New York State	407	13	2	21	13	54	31	6	20
Total New York City	252	9	2	18	8	34	25	...	1
New York	18	1	...	...	...	2	...	...	...
Kings	87	1	1	12	2	20	14	...	...
Queens	47	7	...	5	1	7	2	...	...
Bronx	96	...	1	1	9	4	9	...	1
Richmond	4	...	...	...	...	1	...	...	...
Total Upstate	155	4	...	3	5	20	6	6	19
Albany	16	...	...	...	...	3	...	...	...
Allegany	...	...	...	...	...	...	...	...	...
Broome	2	...	...	...	...	...	...	...	...
Cattaraugus	2	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	1	...	...	...	...	1	...	...	...
Chemung	9	...	...	...	...	...	...	...	5
Chenango	...	...	...	...	...	...	...	...	...
Clinton	3	...	...	...	...	...	...	...	3
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	2	1	...	...	...	...	...	...	...
Dutchess	10	...	...	...	...	...	...	...	5
Erie	5	1	...	...	3	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...
Franklin	1	...	...	...	...	...	...	...	...
Fulton	2	...	...	...	...	...	...	...	...
Genesee	1	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	2	...	...	...	...	...	...	2	...
Herkimer	...	...	...	...	...	...	...	...	...
Jefferson	2	...	...	...	...	1	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Monroe	13	...	...	...	2	2	1	...	...
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	17	...	...	...	...	1	1	1	5
Niagara	2	...	...	...	...	...	...	...	1
Oneida	1	...	...	...	...	...	...	...	...
Onondaga	19	1	...	1	...	8	...	...	...
Ontario	2	1	...	...	...	...	...	...	...
Orange	8	...	...	...	...	1	...	1	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	2	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...
Rensselaer	1	...	...	...	...	...	...	...	...
Rockland	3	...	...	1	...	...	...	...	...
St. Lawrence	1	...	...	...	...	...	...	...	...
Saratoga	4	...	...	...	...	...	...	1	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	1	...	...	...	...	...	...	...	...
Suffolk	10	...	...	...	...	1	2	...	...
Sullivan	1	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	1	...	...	...	...	...	...	1	...
Ulster	1	...	...	...	...	...	1	...	...
Warren	...	...	...	...	...	...	...	...	...
Washington	4	...	...	...	...	...	...	...	...
Wayne	3	...	...	...	...	2	1	...	...
Westchester	3	...	...	1	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

Table A-54 (concluded)
FAMILY COURT
Designated Felony Petitions
Disposed:
Dispositions
1985

	Allegations Established											
						Placement						
	ACD	Dis-charged To Mental Hygiene Insti-tution	Dis-charged With Warn-ing	Condi-tional Dis-charge	Pro-bation	Own Home Rela-tive or Pri-vate Per-son	Comm. Social of Ser-vices	DFY Title II	DFY Title III	Re-stric-tive Place-ment (DFY) 5 yrs.	Re-stric-tive Place-ment (DFY) 3 yrs.	Other Place-ment
Total New York State	12	...	10	...	119	1	10	15	72	2	4	2
Total New York City	7	...	6	...	76	1	...	13	49	2	1	...
New York	...	...	1	...	6	...	...	4	4	...	...	...
Kings	4	...	3	...	17	1	...	3	9	...	...	...
Queens	3	...	1	...	16	...	...	2	2	...	1	...
Bronx	...	...	...	...	36	...	...	4	33	2	...	...
Richmond	...	...	1	...	1	...	...	...	1	...	...	...
Total Upstate	5	...	4	...	43	...	10	2	23	...	3	2
Albany	3	...	...	...	4	...	1	...	5	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	1	...	1	...	...	...	...	...
Cattaraugus	...	...	...	...	2	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	2	...	...	...	...	...	2	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	1	...	...	...	...	...	...	...
Dutchess	1	...	...	...	...	...	2	1	1	...	...	...
Erie	...	...	...	...	...	...	...	...	1	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	1	...	...	...
Fulton	...	...	...	...	1	...	...	...	1	...	...	...
Genesee	...	...	...	...	1	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	...	...	...	...	...	...	...	...
Jefferson	...	...	1	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	...	...	1	...	4	...	...	...	3	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	1	...	4	...	...	...	3	...	...	1
Niagara	...	...	...	...	1	...	...	...	...	...	...	...
Oneida	...	...	...	...	1	...	...	...	...	...	...	...
Onondaga	1	...	...	...	6	...	...	...	1	...	...	1
Ontario	...	...	...	...	...	...	1	...	...	...	...	...
Orange	...	...	...	...	2	...	1	...	3	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	2	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	1	...	...	...	...	...	...	...
Rockland	...	...	...	...	1	...	...	...	...	...	1	...
St. Lawrence	...	...	...	...	...	...	1	...	...	...	...	...
Saratoga	...	...	...	...	1	...	1	...	1	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	1	...	...	...	...	...	...	...
Suffolk	...	...	...	...	5	...	...	...	2	...	...	...
Sullivan	...	...	...	...	...	...	...	1	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	4	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	1	...	...	...	...	...	1	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

Table A-55 (partial)
FAMILY COURT
Removed Designated Felony Petitions Disposed: Dispositions
1985

Region and County	Total Dispositions	Allegations Not Established							
		Dismissed For Failure of Proof at Fact Finding Hearing	Dismissed at Dispositional Hearing	Dismissed For Failure to Prosecute	Dismissed Without Prejudice	Other Dismissal	Withdrawn	Transferred to Another County	Discharged to Another Petition
Total New York State	38	...	1	4	1	1	3	3	2
Total New York City	15	...	...	2	...	1	2	...	...
New York	10	...	...	...	...	1	...	...	...
Kings	...	...	...	...	...	...	...	...	...
Queens	5	...	...	2	...	...	2	...	...
Bronx	...	...	...	...	...	...	...	...	...
Richmond	...	...	...	...	...	...	...	...	...
Total Upstate	23	...	1	2	1	...	1	3	2
Albany	1	...	...	...	...	...	...	1	...
Allegany	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...
Clinton	1	...	...	...	...	...	...	...	1
Columbia	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...
Dutchess	1	...	...	...	...	...	...	1	...
Erie	6	...	1	2	...	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...
Herkimer	1	...	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...
Monroe	8	...	...	...	1	...	1	1	...
Montgomery	...	...	...	...	...	...	...	...	...
Nassau	1	...	...	...	...	...	...	...	1
Niagara	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	...	...	...	...	...
Suffolk	4	...	...	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...

Table A-55 (concluded)
FAMILY COURT
Removed Designated Felony Petitions Disposed: Dispositions
1985

Region and County	Allegations Established											
						Placement						
	ACD	Discharged To Mental Hygiene Institution	Discharged With Warning	Conditional Discharge	Probation	Own Home Relative or Suitable Private Person	Comm. of Social Services	Division For Youth Title 2	Division For Youth Title 3	Restrictive Placement (DFY) 5 Years	Restrictive Placement (DFY) 3 Years	Other Placement
Total New York State	4	...	1	...	8	...	...	2	6	...	2	...
Total New York City	1	...	1	...	2	...	...	...	4	...	2	...
New York	...	...	1	...	2	...	...	...	4	...	2	...
Kings	...	...	...	...	...	...	...	...	...	...	...	...
Queens	1	...	...	...	...	...	...	...	...	...	...	...
Bronx	...	...	...	...	...	...	...	...	...	...	...	...
Richmond	...	...	...	...	...	...	...	...	...	...	...	...
Total Upstate	3	...	...	...	6	...	...	2	2	...	...	...
Albany	...	...	...	...	...	...	...	...	...	...	...	...
Allegany	...	...	...	...	...	...	...	...	...	...	...	...
Broome	...	...	...	...	...	...	...	...	...	...	...	...
Cattaraugus	...	...	...	...	...	...	...	...	...	...	...	...
Cayuga	...	...	...	...	...	...	...	...	...	...	...	...
Chautauqua	...	...	...	...	...	...	...	...	...	...	...	...
Chemung	...	...	...	...	...	...	...	...	...	...	...	...
Chenango	...	...	...	...	...	...	...	...	...	...	...	...
Clinton	...	...	...	...	...	...	...	...	...	...	...	...
Columbia	...	...	...	...	...	...	...	...	...	...	...	...
Cortland	...	...	...	...	...	...	...	...	...	...	...	...
Delaware	...	...	...	...	...	...	...	...	...	...	...	...
Dutchess	...	...	...	...	...	...	...	...	...	...	...	...
Erie	1	...	...	...	1	...	...	1	...	...	...	...
Essex	...	...	...	...	...	...	...	...	...	...	...	...
Franklin	...	...	...	...	...	...	...	...	...	...	...	...
Fulton	...	...	...	...	...	...	...	...	...	...	...	...
Genesee	...	...	...	...	...	...	...	...	...	...	...	...
Greene	...	...	...	...	...	...	...	...	...	...	...	...
Hamilton	...	...	...	...	...	...	...	...	...	...	...	...
Herkimer	...	...	...	...	1	...	...	...	...	...	...	...
Jefferson	...	...	...	...	...	...	...	...	...	...	...	...
Lewis	...	...	...	...	...	...	...	...	...	...	...	...
Livingston	...	...	...	...	...	...	...	...	...	...	...	...
Madison	...	...	...	...	...	...	...	...	...	...	...	...
Monroe	2	...	...	...	1	...	...	1	1	...	...	...
Montgomery	...	...	...	...	...	...	...	...	...	...	...	...
Nassau	...	...	...	...	...	...	...	...	...	...	...	...
Niagara	...	...	...	...	...	...	...	...	...	...	...	...
Oneida	...	...	...	...	...	...	...	...	...	...	...	...
Onondaga	...	...	...	...	...	...	...	...	...	...	...	...
Ontario	...	...	...	...	...	...	...	...	...	...	...	...
Orange	...	...	...	...	...	...	...	...	...	...	...	...
Orleans	...	...	...	...	...	...	...	...	...	...	...	...
Oswego	...	...	...	...	...	...	...	...	...	...	...	...
Otsego	...	...	...	...	...	...	...	...	...	...	...	...
Putnam	...	...	...	...	...	...	...	...	...	...	...	...
Rensselaer	...	...	...	...	...	...	...	...	...	...	...	...
Rockland	...	...	...	...	...	...	...	...	...	...	...	...
St. Lawrence	...	...	...	...	...	...	...	...	...	...	...	...
Saratoga	...	...	...	...	...	...	...	...	...	...	...	...
Schenectady	...	...	...	...	...	...	...	...	...	...	...	...
Schoharie	...	...	...	...	...	...	...	...	...	...	...	...
Schuyler	...	...	...	...	...	...	...	...	...	...	...	...
Seneca	...	...	...	...	...	...	...	...	...	...	...	...
Steuben	...	...	...	...	3	...	...	...	1	...	...	...
Suffolk	...	...	...	...	...	...	...	...	...	...	...	...
Sullivan	...	...	...	...	...	...	...	...	...	...	...	...
Tioga	...	...	...	...	...	...	...	...	...	...	...	...
Tompkins	...	...	...	...	...	...	...	...	...	...	...	...
Ulster	...	...	...	...	...	...	...	...	...	...	...	...
Warren	...	...	...	...	...	...	...	...	...	...	...	...
Washington	...	...	...	...	...	...	...	...	...	...	...	...
Wayne	...	...	...	...	...	...	...	...	...	...	...	...
Westchester	...	...	...	...	...	...	...	...	...	...	...	...
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...

Table A-56
FAMILY COURT
Original Allegations of Family Offense Proceedings Disposed
1985

Region	Total	Assault	Attempted Assault	Reckless Endanger-ment	Menacing	Disorderly Conduct	Harrass-ment	Other
Total New York State	49,556	16,725	1,565	1,396	3,526	8,668	17,563	113
Total New York City	28,308	10,214	617	349	2,092	4,058	10,869	109
Total Upstate	21,248	6,511	948	1,047	1,434	4,610	6,694	4

Table A-57 (partial)
FAMILY COURT
Relationship of Respondent and Petitioner in Family Offense Proceedings Disposed
1985

New York City

Respondents	Petitioners								
	Total	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	10,068	10,042	20	0	1	1	1	0	3
Father of Injured Individual	366	54	126	0	1	117	63	1	4
Wife of Injured Individual	685	0	5	872	4	3	1	0	0
Mother of Injured Individual	173	0	4	1	6	103	51	0	8
Son of Injured Individual	1,714	4	1,343	0	350	7	1	6	3
Daughter of Injured Individual	462	0	409	4	60	1	0	2	6
Other Member of Same Family or Household of Injured Individual	725	2	2	0	0	1	1	689	30
Other	3,763	3	12	0	1	1	0	9	3,737
Total	18,176	10,105	1,921	877	423	234	118	707	3,791

Upstate

Respondents	Petitioners								
	Total	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	9,319	9,301	7	0	0	1	0	0	10
Father of Injured Individual	276	70	31	0	1	108	48	3	15
Wife of Injured Individual	1,076	0	1	1,071	3	0	0	0	1
Mother of Injured Individual	132	0	4	18	3	70	29	1	7
Son of Injured Individual	954	1	690	0	252	1	0	4	6
Daughter of Injured Individual	260	0	203	04	52	2	0	2	1
Other Member of Same Family or Household of Injured Individual	718	2	12	1	2	3	1	658	39
Other	1,233	3	7	0	2	5	0	7	1,209
Total	13,968	9,377	955	1,090	315	190	78	675	1,288

Table A-57 (concluded)
FAMILY COURT
Relationship of Respondent and Petitioner in Family Offense Proceedings Disposed
1985

Total New York State

	Petitioners								
Respondents	Total	Wife of Respondent	Mother of Respondent	Husband of Respondent	Father of Respondent	Daughter of Respondent	Son of Respondent	Other Member Same Family/ Household of Respondent	Other
Husband of Injured Individual	19,367	19,343	27	0	1	2	1	0	13
Father of Injured Individual	642	124	157	0	2	225	111	4	19
Wife of Injured Individual	1,961	0	6	1,943	7	3	1	0	1
Mother of Injured Individual	305	0	8	19	9	173	80	1	15
Son of Injured Individual	2,668	5	2,033	0	602	8	1	10	9
Daughter of Injured Individual	742	0	612	4	112	3	0	4	7
Other Member of Same Family or Household of Injured Individual	1,443	4	14	1	2	4	2	1,347	69
Other	4,996	6	19	0	3	6	0	16	4,946
Total	32,144	19,482	2,876	1,967	738	424	196	1,382	5,079

Table A-58
FAMILY COURT
Dispositions of Family Offense Proceedings
1985

Region County	Total	Dismissed Failure of Proof	Dismissed Failure to Prosecute	Other Dismissal	Withdrawn	Transfer to Another County	Consolidated With Another Petition	Judgment Suspended	Probation	Order of Protection	Probation and Order of Protection	Other
Total New York State	32,144	425	10,259	6,068	4,480	23	56	17	49	10,564	53	150
Total New York City	18,176	295	7,418	4,953	1,275	2	22	3	30	4,090	35	53
New York	2,755	27	593	1 047	301	...	2	...	4	767	2	12
Kings	5,919	99	3 082	1,655	242	...	...	...	13	810	7	11
Queens	4,256	158	1,854	620	337	...	16	2	7	1 238	4	20
Bronx	4,327	10	1 361	1 589	327	2	4	1	4	1 000	20	9
Richmond	919	1	528	42	68	...	...	...	2	275	2	1
Total Upstate	13,968	130	2,841	1 115	3,205	21	34	14	19	6,474	18	97
Albany	452	3	102	2	108	1	...	...	...	235	1	...
Allegany	3	...	...	...	...	...	...	...	...	3	...	...
Broome	391	...	23	111	41	...	...	4	...	208	...	4
Cattaraugus	3	1	...	1	...	...	...	...	...	1	...	...
Cayuga	5	...	...	2	...	...	...	...	...	3	...	...
Chautauqua	59	0	11	7	10	...	...	...	...	31	...	...
Chemung	49	...	2	2	9	...	...	...	...	25	1	10
Chenango	31	...	...	...	11	...	...	...	...	19	...	1
Clinton	49	...	1	3	26	...	...	...	1	14	...	...
Columbia	85	1	7	13	44	...	...	...	...	20	...	...
Cortland	82	...	10	5	25	1	...	...	1	40	...	...
Delaware	70	4	6	8	20	2	1	1	...	28	...	...
Dutchess	401	14	79	20	121	1	...	...	...	163	...	3
Erie	1,150	9	308	101	103	...	...	1	...	629	0	9
Essex	42	...	1	1	12	...	1	...	...	25	...	2
Franklin	58	...	...	3	31	...	...	...	...	24	...	...
Fulton	112	...	12	1	38	...	...	...	...	60	1	...
Genesee	105	2	5	3	30	...	...	2	1	62	...	...
Greene	85	2	10	...	18	...	...	...	1	54	...	...
Hamilton	24	1	...	...	8	...	...	...	...	15	...	...
Herkimer	168	3	23	4	61	1	...	...	1	74	1	...
Jefferson	233	...	49	11	64	...	...	...	1	107	...	1
Lewis	31	...	...	1	6	...	...	...	2	22	...	...
Livingston	24	...	6	3	3	...	...	...	...	12	...	...
Madison	90	1	7	9	22	...	2	...	...	49	...	...
Monroe	502	...	2	135	58	...	...	1	...	303	...	3
Montgomery	7	...	...	2	...	...	...	...	...	5	...	...
Nassau	2,311	18	439	110	622	5	6	...	2	1,089	4	14
Niagara	181	5	25	3	45	...	...	...	...	102	1	...
Oneida	260	1	20	7	102	...	...	...	1	127	...	2
Onondaga	1,008	2	257	114	148	1	1	...	1	482	1	1
Ontario	208	2	16	7	35	...	...	...	...	147	...	1
Orange	141	1	39	3	24	...	...	...	...	69	...	5
Orleans	31	...	1	4	2	...	...	...	3	19	1	1
Oswego	30	...	3	1	14	...	...	...	...	12	...	...
Otsego	7	...	1	...	...	...	...	...	1	5	...	...
Putnam	134	...	11	5	50	...	...	...	...	67	...	1
Rensselaer	133	1	39	4	28	...	10	2	...	49	...	...
Rockland	558	8	84	38	94	...	...	...	1	330	...	3
St. Lawrence	194	2	1	11	30	...	2	1	...	147	...	...
Saratoga	160	3	19	20	27	...	...	...	1	90	...	...
Schenectady	56	...	6	4	13	1	...	...	...	30	...	2
Schoharie	43	...	...	1	12	...	...	...	...	27	...	3
Schuyler	41	2	11	1	1	2	...	1	...	23	...	...
Seneca	23	...	5	...	3	...	1	...	...	14	...	...
Steuben	59	1	1	6	26	...	...	...	...	25	...	...
Suffolk	20,050	14	618	240	510	6	...	1	...	646	3	10
Sullivan	70	1	4	2	16	...	...	...	...	47	...	...
Tioga	66	1	7	...	22	...	...	...	...	36	...	...
Tompkins	71	3	9	2	27	...	1	...	...	25	1	3
Ulster	221	3	36	21	101	...	1	...	...	51	1	7
Warren	81	...	2	7	19	...	1	...	...	51	...	1
Washington	22	...	...	...	11	...	...	...	...	11	...	...
Wayne	105	...	9	3	35	...	...	...	...	57	...	1
Westchester	1,367	21	514	53	316	...	5	...	1	446	2	9
Wyoming	20	...	...	...	3	...	...	...	...	17	...	...
Yates	...	...	...	...	...	...	...	...	...	...	...	...